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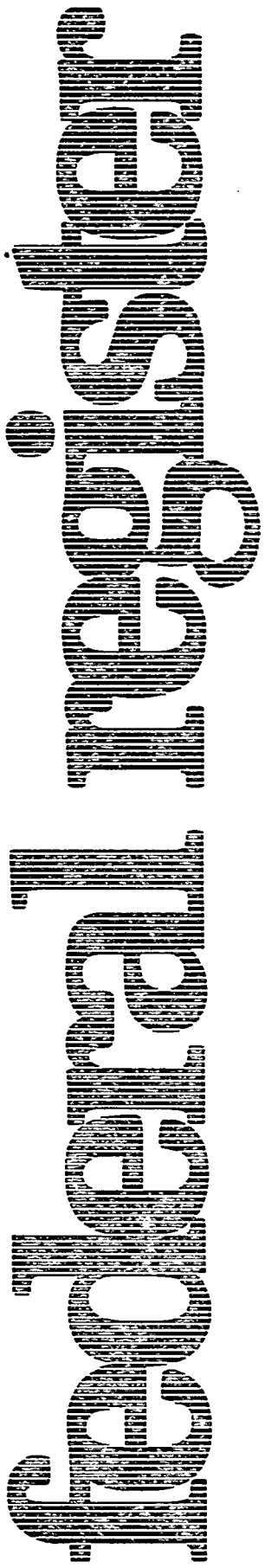

Monday
January 9, 1984

Selected Subjects

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program; Miscellaneous Amendments

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending certain Federal Employees Health Benefits (FEHB) regulations to: (1) Correct several spelling, typographical and reference errors, (2) clarify several definitions, (3) delete sections which are no longer applicable, and (4) expand opportunities to enroll for certain eligible employees who lose coverage outside the FEHB Program.

EFFECTIVE DATE: February 8, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara Myers (202) 632-9677.

SUPPLEMENTARY INFORMATION: On July 1, 1983, the Office of Personnel Management published proposed rules in the Federal Register (48 FR 30406-30407) with a request for comments from interested parties before publication as final regulations. Respondents included one Federal agency, 5 FEHB carriers, 2 associations of group practice prepayment health plans, and several individuals. All comments were considered in developing the final rule. The comments have been organized by subject area (in the order in which the regulations will appear when incorporated in the Code of Federal Regulations) and are addressed below.

Comprehensive Plan Networks (890.204)

Two commenters opposed the proposed deletion of this section and expressed the belief that it is the only clear authority for carriers to offer, and for OPM to contract with, HMO networks. They stated that the CMP network was developed on an experimental basis and has received special considerations which subsequent network proponents might not receive and that this regulation should be retained in order to assure the availability of the network contracting mechanism in the future. We maintain our position that this regulation is no longer necessary since new networks are currently contracted for under the requirements outlined in 890.201 through 890.203. These basic regulations are broad enough to apply to alternate delivery systems, such as comprehensive medical plan networks, whose fundamental benefits and rate structures are comparable to those of any other type of health benefit plan entering the FEHB program.

Opportunities to Enroll and Change Enrollment (890.301)

Paragraph (g) would be amended to allow any employee who loses coverage under any federally-sponsored health benefits program or under the Retired Federal Employees Health Benefits program to register to be enrolled within 31 days after termination of coverage for a reason other than death or within 60 days after termination of coverage because of death of the enrollee. One carrier suggested that the time limit for survivors enrolling as a result of an enrollee's death be limited to 31 days instead of 60 days. In recognition of the fact that the death of a family member is a stressful situation and generally requires settlement of numerous personal and financial matters, OPM has traditionally allowed an employee 60 days after the death of the enrollee to enroll and we do not believe that this time period should be shortened.

Paragraph (x) would permit certain changes in enrollment when an employee is required to relocate outside the commuting area. The employee would be permitted to enroll when he/she loses coverage under a spouse's non-Federal enrollment or change to self and family coverage when the spouse loses coverage under a non-Federal enrollment.

One carrier suggested permitting a change in plan in addition to a change from self only to self and family. Current regulations already assure a continuation of coverage by providing that an employee enrolled in a comprehensive plan may change plans upon relocation. Since an employee who is enrolled in a government-wide or employee organization plan would not suffer any loss of benefits upon relocation, we believe that this additional change is unnecessary.

Several commenters suggested expanding the provisions of this regulation to allow a Federal employee who is covered under a spouse's non-Federal enrollment to enroll or change enrollment whenever the spouse loses coverage. Such a large-scale expansion would be unacceptable for a number of reasons. However, in view of the Administration's efforts to alleviate the effects of unemployment, and to enable the Federal employee to maintain continuous health benefits coverage, we have added a new paragraph (y) which would allow the employee to enroll or change enrollment when coverage under the spouse's non-Federal plan is lost as a direct result of the spouse involuntarily separated from his/her employment because of a lay-off. Further information on this new provision will be issued through future FPM instructions.

Effective Dates (890.306)

Paragraph (d) would be revised to eliminate the requirement that the enrollee return to pay or annuity status before an enrollment change due to the birth or addition of a child can become effective.

Several carriers oppose this and suggest that OPM prohibit changes until the employee returns to pay status. They are concerned that although they will be required to provide coverage for the additional family member while the employee is in nonpay status, they will not be receiving premiums from the employee during this time period. Under current regulations, an employee is responsible for his/her share of the cost of enrollment for every pay period during which the enrollment continues. If this is not paid while the employee is in nonpay status, the indebtedness would be withheld from the employee's salary upon return to pay status. If the employee fails to return, it may be recovered from other sources normally available to the employing office for recovery of indebtedness due the United States. Consequently, carriers will receive premiums from employees for

these periods. In some cases, it is true that premiums will be delayed, but we do not believe that this change will have a significant effect on the carriers.

Withholdings and Contributions (890.502)

Paragraph (b) would be amended to provide that withholdings are not required for the period between the end of the pay period in which an individual separates from service and the commencing date of any annuity payments, if later. One carrier is opposed to this provision and suggests that separated employees be required to make contributions for this interim period. Another suggests the "reloading of rates" to compensate for the loss of income. Current regulations already permit a 31 day extension of coverage without cost upon termination of enrollment. Since the period between voluntary retirement and the commencing date of annuity would never exceed 30 days, and most employees now retire close to the end of the month, the cost to the carriers should be negligible. Furthermore, since the individual is neither an employee nor an annuitant during this time period, it is not practical to require agency or OPM contributions. Since no pay or annuity is received by the individual for this time, it would not be equitable to require contributions when none are required from the agency or OPM.

In consideration of the concerns of one commenter, we are changing the wording of this regulation from "commencement of an immediate annuity" to "commencing date of an immediate annuity". This should clarify that premiums will be due from the effective date of the annuity, and not from the date the annuity is paid.

Two additional editorial revisions will be made to correct minor technical errors in § 890.101(a)(11)(b) and § 890.301(c).

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal employees and annuitants.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Claims, Government employees, Health Insurance, Retirement.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, OPM is amending Part 890 of Title 5 of Code of Federal Regulations as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. In § 890.101, paragraphs (a)(10) and (b) are revised to read as follows:

§ 890.101 Definitions; time computations.

(a) * * *

(10) "Register" means to file with the employing office a properly completed health benefits registration form, either electing to be enrolled in a health benefits plan or electing not to be enrolled. "Register to be enrolled" means to register an election to be enrolled. "Enrolled" means a valid registration form has been accepted by the employing office and the enrollment in a health benefits plan approved by OPM under this part has not been terminated or cancelled.

* * * * *

(b) Whenever, in this part, a period of time is stated as a number of days or a number of days from an event, the period is computed in calendar days, excluding the day of the event. Whenever, in this part, a period of time is defined by beginning and ending dates, the period includes the beginning and ending dates.

* * * * *

§ 890.204 [Removed]

§ 890.205 [Redesignated as § 890.204]

2. Section 890.204 is removed and 890.205 is redesignated as 890.204.

3. Section 890.301 is amended by revising paragraphs (c), (g)(1), (i) and (l), and new paragraphs (x) and (y) are added to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(c) *Reregistration.* An employee whose enrollment was terminated under § 890.304(a)(4), or because he/she had a break in service of more than 3 days, shall register within 31 days after his/her return to pay status.

* * * * *

(g) *Loss of coverage under Federal programs.* (1) An employee who is not enrolled, but is covered by another federally-sponsored health benefits program or by an enrollment under Part 891 of this chapter, and whose coverage or enrollment terminates under the other federally-sponsored program or Part 891, may register to be enrolled:

(i) Within 31 days after termination of coverage for a reason other than death; or

(ii) Within 60 days after termination of coverage because of death of the enrollee.

* * * * *

(i) *Termination by employee organization plan.* An employee or annuitant who is enrolled in a health benefits plan sponsored or underwritten by an employee organization and whose membership in the employee organization is terminated, may register, if the plan terminates his/her enrollment, within 31 days after termination of his/her enrollment in the employee organization plan, to be enrolled in another health benefits plan. However, the employee or annuitant may not change his/her enrollment from self alone to self and family.

* * * * *

(l) *Loss of coverage under parent's non-Federal plan.* An employee who is not registered to be enrolled may register to be enrolled within 31 days after he/she loses coverage under his/her parent's non-Federal health plan for a reason other than death and within 60 days after loss of coverage because of the parent's death.

* * * * *

(x) *Directed reassignment from commuting area.* (1) An employee whose reassignment is directed out of the commuting area and who loses coverage under a spouse's non-Federal enrollment because the non-federally employed spouse terminates his/her employment to accompany the Federal employee, may register to enroll within the period beginning 31 days before the date he/she leaves employment in the old commuting area and ending 31 days after entry on duty at the place of employment in the new commuting area.

(2) An employee whose reassignment is directed out of the commuting area and whose spouse loses non-Federal coverage when he/she terminates non-Federal employment to accompany the Federal employee, may change enrollment from self only to self and family within the period beginning 31 days before the date he/she leaves employment in the old commuting area and ending 31 days after entry on duty at the place of employment in the new commuting area.

(y) *Loss of coverage under spouse's non-Federal plan.* (1) An employee who loses coverage under a spouse's non-Federal enrollment because the non-federally employed spouse was involuntarily separated from his/her employment because of a lay-off, may

register to enroll within the period beginning 31 days before and ending 31 days after the spouse's employment terminates.

(2) An employee whose spouse loses non-Federal coverage because the non-federally employed spouse was involuntarily separated from his/her employment because of a lay-off, may change enrollment from self only to self and family within the period beginning 31 days before and ending 31 days after the spouse's employment terminates.

4. In § 890.302, paragraph (g) is revised to read as follows:

§ 890.302 Coverage of family members.

* * * * *

(g) *Meaning of unmarried.* A child who has never married or whose marriage has been annulled, or a child who is divorced or widowed is considered to be unmarried.

5. In § 890.306, paragraph (d) is revised to read as follows:

§ 890.306 Effective dates.

* * * * *

(d) *Birth or addition of a child.* The effective date of a change in enrollment under § 890.301(e) made in conjunction with the birth of a child, or the addition of a child as a new family member in some other manner, is the first day of the pay period in which the child is born or becomes an eligible family member.

* * * * *

6. In § 890.502, paragraph (b) is revised to read as follows:

§ 890.502 Employee withholdings and contributions.

* * * * *

(b)(1) Except as provided in paragraph (b)(2) of this section, an employee or annuitant is responsible for payment of the employee share of the cost of enrollment for every pay period during which the enrollment continues. In each pay period for which health benefits withholdings are not made but during which the enrollment of an employee or annuitant continues, he/she will incur an indebtedness due the United States in the amount of the proper employee withholdings required for that pay period.

(2) Withholdings are not required for the period between the end of the pay period in which an individual separates from service and the commencing date of an immediate annuity, if later.

(3) The employing office shall establish a method for accepting direct payment for the indebtedness from the individual before initiation of a recovery action. An individual who incurs an indebtedness under this paragraph is deemed to consent to have the full amount of the indebtedness withheld from future salary, or from any other monies owed to the employee by the Federal Government, as an indebtedness due the United States. If the indebtedness cannot be withheld in full from salary, it may be recovered from other sources normally available to the employing office for the recovery of an indebtedness due the United States.

* * * * *

(5 U.S.C. 8913)

[FR Doc. 84-479 Filed 1-6-84; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to reflect the assignment of authority to the Animal and Plant Health Inspection Service (APHIS) to conduct such diagnostic and related activities at the Plum Island Animal Disease Center (PIADC), Orient Point, New York, as may be proper to prevent, detect, control or eradicate any contagious, infectious or communicable disease of animals or live poultry not known to exist in the United States. Such diagnostic and related activities had previously been conducted at PIADC by the Agricultural Research Service (ARS). In addition, the authority for APHIS to administer the Anti-Hog-Cholera Serum and Hog-Cholera Virus Act of August 24, 1935 (7 U.S.C. 851–855) is removed since there is no further activity required under that Act.

EFFECTIVE DATE: January 9, 1984.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Classification, Employment and Executive Resources Program, Human Resources Division, Animal and Plant Health Inspection Service, 6505 Belcrest Road, Hyattsville, MD 20782; (301–436–6466).

SUPPLEMENTARY INFORMATION: The Plum Island Animal Disease Center (PIADC) is a diagnostic and research facility devoted to preventing diseases of animals from endangering the livestock population of the United States. It is responsible for: (1) Developing diagnostic capabilities for animal diseases that are foreign to the United States; (2) Conducting a wide range of research endeavors on the causitive agents of these diseases; and (3) Developing procedures for the safe importation of animals and animal products.

The primary mission of ARS is to conduct problem-oriented research. The facilities of the PIADC are designed to work with exotic animal diseases, some of which can only be worked with on Plum Island because of legal limitations. For these reasons, the responsibility for diagnoses of foreign animal diseases was assigned to ARS in 1957 when the facility at Plum Island began operations.

This primary role in research has been compromised at times by demands of the needs for diagnostic services and training responsibilities. This has created an increased burden in recent years, due to a stronger emphasis on import demands for animal products and livestock. It has been determined that the assignment of the diagnostic services and related activities to APHIS at the PIADC could alleviate some administrative problems and provide working assignments more appropriate to the missions of the two agencies. The functions involved include diagnosis of foreign animal diseases, preparation of diagnostic reagents, diagnostic methods evaluation or adaptation, training of foreign animal disease diagnosticians, vaccine production and storage, and epizootiology and/or epidemiology testing.

Accordingly, the delegations of authority by the Secretary and general officers of the Department are being amended to delegate to the Assistant Secretary for Marketing and Inspection Services, and the Administrator, APHIS, the responsibility for diagnostic and related activities at PIADC. The Department believes that this delegation conforms to the mission of APHIS and that it will enable the agency to serve the public more efficiently.

In addition, the delegations to the Assistant Secretary for Marketing and Inspection Services and the Administrator, APHIS, to administer the Anti-Hog-Cholera Serum and the Hog-Cholera Virus Act of August 24, 1935 (7 U.S.C. 851–855) are removed since the production and sale of Anti-Hog-Cholera Serum and Hog-Cholera Virus in the United States is prohibited.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after

publication in the Federal Register. Further, since rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this subject is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—[AMENDED]

Accordingly, 7 CFR Part 2 is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.17 is amended by revising paragraph (b)(27) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * *

(b) * * *

(27) Conduct diagnostic and related activities necessary to prevent, detect, control or eradicate foot-and-mouth disease and other foreign animal diseases (21 U.S.C. 113a).

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

3. Section 2.51 is amended by revising paragraph (a)(27) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) * * *

(27) Conduct diagnostic and related activities necessary to prevent, detect, control or eradicate foot-and-mouth disease and other foreign animal diseases (21 U.S.C. 113a).

* * * * *

Dated: December 30, 1983.

For Subpart C.

John R. Block,

Secretary of Agriculture.

Dated: December 19, 1983.

For Subpart F.

C. W. McMillan,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 84-412 Filed 01-06-84; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 586, Amdt. 2]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 30, 1983 through January 5, 1984. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

DATES: The amendment is effective for the period December 30, 1983 through January 5, 1984.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202-447-5975.

SUPPLEMENTARY INFORMATION:

Findings

This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This amendment is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1983-84. The committee met by telephone on December 30, 1983, to consider the current and prospective conditions of supply and demand and recommended an increase in the quantity of oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is very good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of navel oranges. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

PART 907—[AMENDED]

1. Section 907.886 (48 FR 57260, 49 FR 848) paragraphs (a) through (d) are hereby revised to read as follows:

§ 907.886 Navel Orange Regulation 586.

(a) District 1: 1,200,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: January 4, 1984.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-477 Filed 1-6-84; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 915

Avocados Grown in South Florida; Container Regulation Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule slightly modifies the dimensions of a currently authorized container used solely for export shipments of avocados and

slightly reduces the minimum net weight of avocados which must be packed in each such container. Such action is designed to assure that export shipments of avocados are in containers suitable for that purpose.

DATES: Effective date: January 9, 1984. Comments due: February 8, 1984.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This interim rule is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Avocado Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This interim rule modifies the inside dimensions of the only container currently authorized solely for export shipments of avocados from 14$^{6}/_{16}$ × 11$^{2}/_{16}$ × 4$^{3}/_{16}$ inches to 14½ × 11$^{1}/_{16}$ × 3$^{5}/_{16}$ inches. It also reduces the minimum net weight of avocados which must be packed in this container from 8.8 pounds to 8.5 pounds. This rule would continue to require that avocados packed in such container shall be placed in a single layer. Container dimensions, minimum net weight of avocados in containers, and pack specifications are designed to insure that avocados are not damaged during transit by reducing the amount of loose space. Thus, these particular requirements are necessary to protect the quality of shipments of avocados to export markets and thereby expand demand for avocados in such markets.

It is found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this interim rule until 30 days after publication in the Federal Register (5 U.S.C. 553) because of insufficient time between the date when information became available upon which this rule is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on this rule at an open meeting. Handlers have been apprised of this rule's provisions and the effective time. The 1983–84 Florida avocado shipping season is currently in progress, and handlers need to make use of this rule's provisions as soon as possible. This rule slightly modifies container specifications to assure that export shipments of avocados are in containers suitable for that purpose, and it provides 30-day comment period. A longer comment period would be contrary to the public interest, as any comments on the effect of the rule need be received within 30 days, so that any necessary changes can be made promptly to enhance orderly marketing of Florida avocados. All comments received will be considered prior to finalization of this interim rule.

List of Subjects in 7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

Therefore, § 915.305 is amended by revising the introductory text in paragraph (a), and paragraphs (a)(2) and (a)(14), to read as follows:

§ 915.305 Florida Avocado Container Regulation.

(a) On and after January 9, 1934, no handler shall handle any avocados for the fresh market from the production area to any point outside thereof in containers having a capacity of more than 4 pounds of avocados unless the containers meet the requirements specified in this section: *Provided,* That the containers authorized in this section shall not be used for handling avocados for commercial processing into products pursuant to § 915.55(c).

* * * * *

(2) Containers with inside dimensions of 14½ × 11$^{1}/_{16}$ × 3$^{5}/_{16}$ inches: *Provided,* That such containers shall only be used for export shipments.

* * * * *

(14) With respect to the containers prescribed in paragraph (a)(2) of this section, all avocados packed in such containers shall be placed in one layer only and the net weight of all avocados in any such container shall not be less than 8.5 pounds: *Provided,* That not to exceed 5 percent, by count, of such containers in any lot may fail to meet such weight requirement.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: January 3, 1934.

Russell L. Hawes,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 84-470 Filed 1-6-84; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-79-AD; Amt. 39-4793]

Airworthiness Directives; DeHavilland DHC-6 Models 1, 100, 200 and 300 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to DeHavilland DHC–6 Models 1, 100, 200 and 300 airplanes, which requires inspection and replacement, if necessary, of the stabilizer to tailplane attachment brackets. Stress corrosion cracks have been found in these brackets which can develop and cause failure of the bracket and loss of the horizontal stabilzer. The required action will result in detection and replacement of cracked brackets before such a failure occurs.

DATES: Effective Date: January 13, 1934. Compliance: As prescribed in the body of the AD.

ADDRESS: DeHavilland Service Bulletin (SB) No. 6/438 dated August 12, 1933, applicable to this AD, may be obtained from DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario, Canada MY31YK. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Barsamian, FAA, New York Aircraft Certification Office, ANE–172, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, telephone (516) 791–6220.

SUPPLEMENTARY INFORMATION: There have been two instances of cracked rear attachment brackets on the DeHavilland DHC–6 tailplane rear spar. The cracks are attributed to stress corrosion initiated by an interference fit between the bracket and bushing. These cracks, if allowed to progress, will result in failure of the bracket and loss of the

horizontal stabilizer. As a result, DeHavilland has issued SB No. 6/438, which prescribes intitial and repetitive inspections of the presently installed brackets and replacement of cracked brackets. This bulletin also introduces Modifications 6/1808 and 6/1809 incorporating new brackets which, when installed, allow extension of the repetitive inspection intervals. The Department of Transport, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Canada, has issued Airworthiness Directive No. CF–83–21 dated August 29, 1983, making compliance with portions of DeHavilland SB No. 6/438 dated August 12, 1983, mandatory on airplanes operated in Canada. The FAA relies upon the certification of the Department of Transport combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA has examined the avilable information related to the issuance of Transport Canada AD No. CF–83–21 dated August 29, 1983. Based on the foregoing, the FAA has determined that the condition addressed by SB No. 6/438 is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring inspection and replacement of cracked tailplane attachment brackets on DeHavilland DHC–6 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Regulations (14 CFR 39.13) is amended by adding the following new AD.

DeHavilland: Applies to Model DHC–6 airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of tailplane front and rear attachment brackets, accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD, unless previously accomplished within the last 750 hours time-in-service or 7½ months, whichever occurs later, and each 800 hours time-in-service or 8 months thereafter, whichever occurs first:

(1) Inspect the left and right side tailplane front (Part No. C6TPM1012–27) and rear (Part No. C6TPM1013–27) attachment brackets in accordance with the ACCOMPLISHMENT INSTRUCTIONS of DeHavilland SB 6/438 dated August 12, 1983.

(b) If cracks are found during the inspection per paragraph a):

(1) Replace brackets having a crack or cracks of combined length greater than 1 inch prior to further flight with a new bracket of the same part number or a comparable bracket from DeHavilland Modification No. 6/1808 or 6/1809.

(2) Replace brackets having a crack or cracks of combined length of 1 inch or less within 100 hours time-in-service, subject to findings of subparagraph (A) below, with a new bracket of the same part number or a comparable bracket from DeHavilland Modification No. 6/1808 or 6/1809.

(A) Within 50 hours time-in-service or 13 days, whichever occurs first, after a crack or cracks are found, reinspect the brackets in accordance with paragraph (a) of this AD and replace brackets having cracks of a combined length greater than 1 inch with a new bracket of the same part number or a comparable bracket from DeHavilland Modification No. 6/1808 or 6/1809 prior to further flight.

(c) Within 2400 hours time-in-service and each 2400 hours time-in-service thereafter, insect replacement brackets of Modification No. 6/1808 or 6/1809 in accordance with ACCOMPLISHMENT INSTRUCTIONS of DeHavilland SB 6/438 dated August 12, 1983, and replace cracked brackets in accordance with the criteria contained in paragraphs (a) and (b) above.

(d) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD may be accomplished.

(e) Alternate means of compliance may be used if approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, ANE–170, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581.

This amendment becomes effective on January 13, 1984.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449 January 12, 1983); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89)).

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption ADDRESSES at the location identified.

Issued in Kansas City, Missouri, on December 29, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 84-455 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASO-35]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Designation of Transition Area, Okolona, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates the Okolona, Mississippi, transition area in the vicinity of Okolona Municipal-Richard Stovall Field. This action, which will lower the base of controlled airspace from 1,200 to 700 feet above the surface, will provide controlled airspace for Instrument Flight Rule (IFR) operations in the vicinity of the airport. An instrument approach procedure, predicated on the Tupelo VOR/DME facility, had been developed to serve the airport and additional controlled airspace is required for protection of IFR operations.

EFFECTIVE DATE: 0901 G.m.t., March 15, 1984.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On Friday, October 21, 1983, FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by designating a 700-foot transition area in the vicinity of Okolona, Mississippi. This transition area will provide controlled airspace for protection of instrument flight operations in the vicinity of Okolona Municipal-Richard Stovall Field (48 FR 48831). The operating status of the airport is changed to IFR. Interested parties were invited to participate in this rulemaking proceeding by submitting

written comments on the proposal to the FAA. All comments received were favorable. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates the Okolona, Mississippi, transition area and lowers the base of controlled airspace in the vicinity of Okolona Municipal-Richard Stovall Field from 1,200 to 700 feet above the surface.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t. March 15, 1984, by adding the following:

Okolona, MS—[New]

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of Okolona Municipal-Richard Stovall Field (Lat. 34°00'57" N., Long. 88°43'34" W.); excluding that portion that coincides with the Tupelo, MS, transition area.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983.))

Note.—The FAA determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefor, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034: February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on December 30, 1984.

George R. LaCaille,

Acting Director, Southern Region

[FR Doc. 84-456 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-ASO-40]

Alteration of Transition Area, Andrews, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment alters the Andrews, South Carolina, transition area by revising the geographical coordinates of Andrews Municipal Airport and the Punch radio beacon. The coordinates are improperly listed in the description and this amendment will correct the deficiencies so that the description is technically correct. In addition, the transition area arrival extension will be realigned two degrees to coincide with the instrument approach procedure serving the airport. No significant change in airspace is intended by these actions.

DATES: Effective Date: 0901 G.m.t. March 15, 1984. Comments must be received on or before February 10, 1984.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, ATTN: Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, P. O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves technical corrections to the description of the transition area, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to revise the coordinates of the Andrews Municipal Airport and Punch radio beacon and realign a transition area final approach course. The coordinates and final approach course specified in the present description are not correct and this action will correct the deficiencies. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983. Under the circumstances presented, the FAA concludes that there is a need to list the proper coordinates of the airport and radio beacon as well as the final approach course so that the description of the transition area is technically correct. The changes are so minor and nonsubstantive I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Andrews, South Carolina, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, effective 0901 G.m.t. March 15, 1984, as follows:

Andrews, South Carolina (Revised)

That airspace extending upward from 700 feet above the surface with a 6.5-mile radius of Andrews Municipal Airport (Lat. 33°27'05" N., Long. 79°31'36" W.); within 3 miles each side of the 169° bearing from Punch RBN (Lat. 33°27'05" N., Long. 79°31'39" W.), extending from the 6.5-mile radius area to 8.5 miles south of the RBN.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97-49, January 12, 1983))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine

matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in East Point, Georgia, on December 28, 1983.

George R. LaCaille,

Acting Director, Southern Region

[FR Doc. 84-458 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 23881; Amdt. No. 1259]

Standard Instrument Approach, Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By Amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

** * * Effective March 1, 1984*

Burlington, WI—Burlington Muni, VOR RWY 29, Amdt. 4

** * * Effective February 16, 1984*

El Dorado, AR—Goodwin Field, VOR RWY 22, Amdt. 11
El Dorado, AR—Goodwin Field, VOR/DME RWY 4, Amt. 7
Chicago (West Chicago), IL—DuPage, VOR RWY 10, Amdt. 9
Pittsburg, KS—Atkinson Muni, VOR/DME RWY 3, Orig.
Wichita, KS—Beech Factory, VOR-B, Amdt. 1
Tupelo, MS—C.D. Lemons Muni, VOR RWY 4, Amdt. 7
Boonville, MO—Jesse Viertel Memorial, VOR-A, Amdt. 1
Hobbs, NM—Lea County (Hobbs), VOR or TACAN RWY 3, Amdt. 19
Hobbs, NM—Lea County (Hobbs), VOR/DME or TACAN RWY 21, Amdt. 6
Charleston, SC—Charleston Executive, VOR-A, Amdt. 6
Abilene, TX—Abilene Municipal, VOR-A, Amdt. 7

Abilene, TX—Abilene Municipal, VOR RWY 22, Amdt. 2
Dumas, TX—Dumas Muni, VOR/DME-A, Amdt. 3
Follett, TX—Follett/Lipscomb County, VOR/DME-A, Amdt. 1
Houston, TX—William P. Hobby, VOR/DME RWY 22, Amdt. 21
Saint George, UT—Saint George Muni, VOR-B, Amdt. 1
Saint George, UT—Saint George Muni, VOR-C, Amdt. 1
Saint George, UT—Saint George Muni, VOR/DME RWY 34, Amdt. 1

** * * Effective December 23, 1983*

Goodland, KS—Renner Fld (Goodland Muni), VOR RWY 30, Amdt. 6
Goodland, KS—Renner Fld (Goodland Muni), VOR/DME RWY 30, Amdt. 4

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

** * * Effective February 16, 1984*

El Dorado, AR—Goodwin Field, LOC RWY 22, Amdt. 2
Springfield, MO—Springfield Regional, LOC BC RWY 19, Amdt. 14, Cancelled
Hobbs, NM—Lea County (Hobbs), LOC/DME BC RWY 21, Amdt. 4
Abilene, TX—Abilene Municipal, LOC BC RWY 17L, Amdt. 1
Houston, TX—Houston-Southwest, LOC/DME RWY 10, Amdt. 2

** * * Effective January 19, 1984*

Denver, CO—Stapleton Intl, LDA/DME RWY 35R, Orig.
Elmira, NY—Elmira/Corning Regional, LOC BC RWY 6, Amdt. 1, Cancelled

3. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

** * * Effective February 16, 1984*

Arkadelphia, AR—Arkadelphia Muni, NDB RWY 4, Amdt. 5
Columbia, CA—Columbia Airport, NDB-A, Orig.
Greeley, CO—Weld County Muni, NDB RWY 9, Orig.
Lakeland, FL—Lakeland Muni, NDB RWY 5, Orig.
Flora, IL—Flora muni, NDB RWY 21, Amdt. 2
Iowa Falls, IA—Iowa falls Muni, NDB RWY 31, Amdt. 2
Sheldon, IA—Sheldon Muni, NDB RWY 33, Amdt. 4
South St. Paul, MN—South St. Paul Muni—Richard E. Fleming Fld, NDB-B, Amdt. 1
Boonville, MO—Jesse Viertel Memorial, NDB RWY 18, Amdt. 5
Andrews, SC—Andrews Muni, NDB RWY 36, Amdt. 2
Georgetown, SC—Georgetown County, NDB RWY 5, Amdt. 2
Abilene, TX—Abilene Muni, NDB RWY 35R, Amdt. 3
Dumas, TX—Dumas Muni, NDB RWY 1, Amdt. 1
Follett, TX—Follett/Lipscomb County, NDB RWY 35, Amdt. 1
Houston, TX—Houston-Southwest, NDB RWY 10, Amdt. 3
Houston, TX—Houston-Southwest, NDB RWY 28, Amdt. 2
Lamesa, TX—Lamesa Muni, NDB RWY 16, Orig.
Lamesa, TX—Lamesa Muni, NDB RWY 34, Amdt. 1

** * * Effective December 23, 1983*

Goodland, KS—Renner Fld (Goodland Muni), NDB RWY 30, Amdt. 5

4. By amending § 97.29 ILS ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

** * * Effective February 16, 1984*

Denver, CO—Stapleton Intl, ILS RWY 35L, Amdt. 25
Greeley, CO—Weld County Muni, ILS RWY 9, Amdt. 1
Atlanta, GA—The William B. Hartsfield Atlanta Intl, ILS RWY 27L, Amdt. 10
Savannah, GA—Savannah International, ILS RWY 36, Amdt. 1
Chicago (West Chicago), IL—DuPage, ILS RWY 10, Amdt. 5
Tupelo, MS—C. D. Lemons Muni, ILS RWY 36, Amdt. 1
Hobbs, NM—Lea County (Hobbs), ILS RWY 3, Amdt. 4
Abilene, TX—Abilene Muni, ILS RWY 35R, Amdt. 2

** * * Effective January 19, 1984*

Elmira, NY—Elmira/Corning Regional, ILS RWY 6, Orig.
Pittsburgh, PA—Allegheny County, ILS RWY 28, Amdt. 26

** * * Effective December 23, 1983*

Goodland, KS—Renner Fld (Goodland Muni), ILS RWY 30, Amdt. 1

5. By amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective February 16, 1984*

Orlando, FL—Orlando Executive, RADAR-1, Amdt. 20
Tampa, FL—Tampa Intl, RADAR-1, Amdt. 10
Louisville, KY—Standiford Field, RADAR-1, Amdt. 22
White Plains, NY—Westchester County, RADAR-1, Amdt. 3, Cancelled
Charleston, SC—Charleston AFB/Intl, RADAR-2, Amdt. 13
Abilene, TX—Abilene Muni, RADAR-1, Amdt. 6

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective February 16, 1984*

Peoria, IL—Greater Peoria, RNAV RWY 22, Amdt. 6
Dumas, TX—Dumas Muni, RNAV RWY 19, Amdt. 1
Houston, TX—Houston-Southwest, RNAV RWY 28, Amdt. 1
Houston, TX—Houston-Southwest, RNAV RWY 10, Amdt. 1

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C. on January 6, 1984.

Kenneth S. Hunt,

Director of Flight Operations.

[FR Doc. 84-439 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. 78N-1945]

Gastroenterology-Urology Devices; General Provisions and Classification of 56 Devices

Correction

In FR Doc. 83-31320 beginning on page 53012 of the issue of Wednesday, November 23, 1983, make the following corrections:

1. On page 53014, the first entry at the top of the second column, under "Section and device", the section number now reading "876.5230" should be "876.5320".

2. On page 53022, the sixth line from the bottom of the first column, "devices" should be inserted between "medical" and "whether".

3. On page 53023, the eleventh line from the top of the first column, the figure "360" should be "360c".

BILLING CODE 1505-01-M

21 CFR Part 890

[Docket No. 78N-1182]

Physical Medicine Devices; General Provisions and Classification of 82 Devices

Correction

In FR Doc. 83-31321, beginning on page 53032 of the issue of Wednesday,

November 23, 1983, make the following corrections:

1. On page 53033, thirteenth line from the bottom of the first column, "360(f)(2)" should be "360j(f)(2)".

2. On the same page, third column, in the table, under Respiratory and Nervous System Devices Panel, Anesthesiology Device Section "44 FR 63292-633426" should have read "44 FR 63292-63426".

3. On page 53034, the heading to the table at the top of the second column should read "Subpart D—Physical Medicine Prosthetic Devices—Continued".

4. On page 53036, first column, the second line of the paragraph following paragraph 5., the figure "50472" should be "50474".

5. On page 53037, second column, second line of paragraph 7., figure "119" should be "1196".

BILLING CODE 1505-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Employment Discrimination Charges

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges. Publication of this amendment rescinds the designation of the Wichita (KS) Commission on Civil Rights as a 706 Agency.

EFFECTIVE DATE: January 9, 1984.

FOR FURTHER INFORMATION CONTACT: Hollis Larkins, Equal Employment Opportunity Commission, Office of Program Operations, Special Services Staff, 2401 E Street NW., Washington, D.C. 20507, telephone 202/634-6526.

SUPPLEMENTARY INFORMATION: The EEOC was notified that the ordinance establishing the Wichita Commission on Civil Rights was amended, abolishing the Wichita Commission on Civil Rights. Consequently, the Director, Office of Program Operations, believed that the Wichita Commission on Civil Rights should not be considered a 706 Agency. In accordance with 29 CFR 1601.71(c) the Director, Office of Program Operations, has given the Wichita City Attorney 15 days in which to respond to the preliminary findings. Accordingly, the Director hereby makes a final determination that the Wichita Commission on Civil Rights should no longer be considered a 706 Agency.

Publication of this amendment to § 1601.74 rescinds the designation of the following agency as a designated 706 Agency: Wichita (KS) Commission on Civil Rights.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

PART 1601—[AMENDED]

§ 1601.74 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.74(a) by removing the entry for the Wichita (KS) Commission on Civil Rights.

Signed at Washington, D.C. this 30th day of December, 1983.

For the Commission.

Odessa Shannon,

Director, Office of Program Operations.

[FR Doc. 84-480 Filed 1-6-84; 8:45 am]

BILLING CODE 6570-06-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Non-Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits in Non-Multiemployer Plans, Part 2619, by adding a new table, Table I-84, to Appendix D. Table I-84 is to be used for plans covered under Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, that terminate in 1984. The table is needed to determine an expected retirement age for certain plan participants in terminating pension plans that provide for an early retirement benefit. The expected retirement age is needed to calculate the value of the early retirement benefit and, thus, the total value of benefits under the plan.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel., Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202-254-6476 (not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 28, 1981, the Pension Benefit Guaranty Corporation ("PBGC") published a final and interim rule on Valuation of Plan Benefits in Non-Multiemployer Plans, 29 CFR Part 2610 (46 FR 9492). Under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.*, as amended, covered pension plans that terminate must determine the total value of benefits under the plan in order to determine if plan assets are sufficient to provide for those benefits. If plan assets are not sufficient to provide for all benefits guaranteed by PBGC, the employer is liable for the insufficiency up to a limit of 30% of the employer's "net worth" within the meaning of 29 U.S.C. 1362. The interim portion of the benefit valuation regulation, Subpart D and Appendices D and E, provided methods for determining an expected retirement age to be used with the rules in Subparts B and C of Part 2610 to determine the value of an early retirement benefit. Part 2610 was redesignated Part 2619 in a notice published June 24, 1981 (46 FR 32574). Subpart D and Appendices D and E of Part 2619, as amended December 31, 1981 (46 FR 63268), were promulgated as final rules on April 13, 1982 (47 FR 15780).

Appendix D contains two sets of tables to be used to determine an expected date of retirement for each participant entitled to early retirement. The first set of tables, Selection of Retirement Rate Category (I-79, I-80, I-81, I-82, and I-83), is used to determine whether a participant has a low, medium, or high probability of retiring early. The second set of tables, Expected Retirement Ages for Individuals in the Low/Medium/High Categories (II-A, II-B, and II-C), is used to determine the expected retirement age.

The first set of tables determines the probability of early retirement based on the year a participant would reach normal retirement age and the participant's monthly benefit at normal retirement age. The second set of tables establishes, by probability category, the expected retirement age based on both the earliest age a participant could retire and the normal retirement age under the plan. This expected retirement age is used to calculate the value of the early retirement benefit and, thus, the total value of benefits under the plan and the amount of employer liability, if any, owed to PBGC.

The first set of tables in Appendix D as originally published (46 FR at 9514)—the Selection of Retirement Rate Category—consists of three tables. The tables establish a retirement rate category for each of the calendar years 1979 through 1981, and each table applies only to plans terminating in that particular year. Table I–82 was added on December 31, 1981 (46 FR 63268) in order to update the correlation between the amount of a participant's benefit and the probability that he or she will elect early retirement. On December 22, 1982, a new table, I–83, was added (47 FR 57021) to further update Appendix D for use in valuing benefits in plans that terminated in calendar year 1983. Normally, a table remains in effect only for a calendar year. This rule amends Appendix D of Part 2619 to add Table I–84 for use in valuing benefits in plans that terminate during calendar year 1984.

The PBGC has determined that notice of and public comment on the addition of Table I–84 to Appendix D, Part 2619, are impracticable and contrary to the public interest. This determination is based on the need to issue the table promptly so the appendix will reflect, as accurately as possible, the relationship between a participant's benefit and his or her probability of retiring early. The PBGC has found that the public interest is best served by issuing this table without an opportunity for notice and comment so that plans can calculate the value of plan benefits before submitting a notice of intent to terminate. Also, plans will be able to predict employer liability more accurately prior to plan termination and can, therefore, lessen or avoid interest charges under 29 CFR § 2622.7 for late payment of employer liability. Moreover, because of the need to provide immediate guidance for the valuation of benefits under plans that will terminate on or after January 1, 1984, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the table set forth in this amendment to the final regulation effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291 of February 17, 1981 (46 FR 13193) because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

PART 2619—[AMENDED]

In consideration of the foregoing, Part 2619 of Chapter XXVI, of Title 29, Code of Federal Regulations is hereby amended by adding a new table and making corrections as follows:

1. The authority citation for Part 2619 reads as follows:

Authority: Sections 4002(b)(3), 4041(b), 4044, and 4062(b)(1)(A), Pub. L. 93–406, 88 Stat. 1004, 1020, 1025, 1029 (1974), as amended by Secs. 403(l), 403(d), and 402(a)(7), Pub. L. 96–364, 94 Stat. 1302, 1301, and 1299 (1980) (29 U.S.C. 1302, 1341, 1344, 1362).

2. Appendix D to Part 2619 is amended by the addition of Table I–84, as follows:

Appendix D.—Tables Used To Determine Expected Retirement Age

* * * * *

TABLE I–84.—SELECTION OF RETIREMENT RATE CATEGORY

[For plans with a valuation date after Dec. 31, 1983, and before Jan. 1, 1985]

Participant reaches NRA in year	If monthly benefit at NRA is			
	Less than—[1]	From—[2]	To—[2]	Greater than—[3]
1985	$264	$264	$1,110	$1,110
1986	276	276	1,161	1,161
1987	288	288	1,215	1,215
1988	301	301	1,269	1,269
1989	315	315	1,325	1,325
1990	328	328	1,383	1,383
1991	343	343	1,444	1,444
1992	359	359	1,508	1,508
1993	374	374	1,574	1,574
1994 or later	390	390	1,642	1,642

[1] Participant's retirement rate category is low (table I–A).
[2] Participant's retirement rate category is medium (table I–B).
[3] Participant's retirement rate category is high (table I–C).

David M. Walker,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84–509 Filed 1–6–84; 8:45 am]

BILLING CODE 7708–01–M

29 CFR Part 2621

Limitation on Guaranteed Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the Limitation on Guaranteed Benefits regulation contains the maximum guaranteeable pension benefit that may be paid by the Pension Benefit Guaranty Corporation under Title IV of the Employee Retirement Income Security Act of 1974, as amended, to a plan participant in a covered single-employer pension plan that terminates in 1984. Section 4022(b)(3)(B) of the Act provides that the maximum benefit guaranteeable by PBGC is based on the contribution and benefit base determined under section 230 of the Social Security Act. This amendement updates the regulation to include the dollar amount of the maximum guaranteeable benefit for 1984.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Legal Department, Code 250, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202–254–6476. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 11, 1976, the Pension Benefit Guaranty Corporation ("PBGC") published a final rule entitled Limitation on Guaranteed Benefits (29 CFR Part 2609, recodified as 29 CFR Part 2621 on June 24, 1981). That rule sets forth the method of calculating the maximum guaranteeable benefit under section 4022(bn)(3)(B) Under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 *et seq.* (1976), *as amended by* the Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208 ("ERISA"). Section 2621.3(a)(2) provides that the maximum guaranteeable benefit is "$750 mulitplied by the fraction x/$13,200 where 'x' is the Social Security contribution and benefit base determined under section 230 of the Social Security Act in effect at the date of termination of the plan."

In the Social Security Amendments of 1977, special increases were added to the contribution and benfit base. However, the amended Social Security Act specifically states that, for the purpose of section 4022(b)(3)(B) of ERISA, the contribution and benefit base for each year after 1976 will be the base that would have been determined for each year if the law in effect immediately before the amendment had remained in effect without change. 42 U.S.C. 430(d) (1976 Ed., Supp. III).

On January 23, 1981, the PBGC published a final rule (46 FR 7323) which added an appendix to the Limitation on Guaranteed Benefits regulation. The appendix lists the maximum guaranteeable benefit payable by the PBGC to participants in single-employer plans that have terminated each year since ERISA went into effect. On

December 13, 1982, the PBGC published a final rule (47 FR 55672) amending the regulation to update the appendix for plans terminating in 1983. The PBGC published a correction to this final rule on December 28, 1982 (47 FR 57702). This amendment updates the appendix for plans that terminate in 1984.

The PBGC has been notified by the Social Security Administration that the contribution and benefit base for 1984 which is to be used to calculate the PBGC maximum guaranteeable benefit is $28,200. Accordingly, applying the formula under section 4022(b)(3)(B) of ERISA, the PBGC has determined that the maximum benefit guaranteeable by PBGC in 1984 will be $1,602.27 per month in the form of a life annuity commencing at age 65 or the actuarial equivalent of $1,602.27 payable in a different form or commencing at a different age.

Because the maximum guaranteeable benefit is determined according to the formula in section 4022(b)(3)(B) of ERISA, and this amendment makes no change in its method of calculation but simply lists the 1984 maximum guaranteeable benefit amount for the public's knowledge, general notice of proposed rulemaking is not required. Moreover, because the 1984 maximum guaranteeable benefit is effective, under the statute, at the time that the Social Security contribution and benefit base is effective, *i.e.*, January 1, 1984, and is not dependent on the issuance of this regulation, the PBGC finds that good cause exists for making this amendment effective before the 30 day period set forth in 5 U.S.C. 553.

The PBGC has determined that this amendment to the Limitation on Guaranteed Benefits Regulations is not a "major rule" under the criteria set forth in Executive Order 12291, February 17, 1981 (46 FR 13193 because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2621

Employee benefit plans, Pension insurance, and Pensions.

PART 2621—[AMENDED]

In consideration of the foregoing, Part 2621 of Chapter XXVI, Code of Federal Regulations, is hereby amended to read as follows:

1. The authority citation for Part 2621 is revised to read ad follows:

Authority: Secs. 4002(b)(3), 4022(b), and 4022B, Pub. L. 93–406, 88 Stat. 829, 1004, and 1016, as amended by Secs. 403(1), 403(c), and 102, Pub. L. 96–364, 94 Stat. 1208, 1302, 1300, and 1215 (29 U.S.C. 1302, 1322, and 1322B).

2. Appendix A to Part 2621 is amended by adding a new entry to read as follows:

Appendix A to Part 2621—Maximum Guaranteeable Monthly Benefit

The following table lists by year the maximum guaranteeable monthly benefit payable in the form of a life annuity commencing at age 65 as described by § 2621.3(a)(2) to a participant in a plan that terminated in that year:

Year	Maximum guaranteeable monthly benefit
. . . . .	
1984	$1,602.27

Effective date: This regulation is effective January 1, 1984.

David M. Walker,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 84-505 Filed 1-6-84; 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 469

[FRL 2472-2]

Electrical and Electronic Components Point Source Category Pretreatment Standards, and New Source Performance Standards; (Phase II)

Correction

In FR Doc. 83–33165 beginning on page 55690 in the issue of Wednesday, December 14, 1983, make the following corrections:

The date "July 14, 1987" should have read "July 14, 1986" in the following places:

1. On page 55690, first column, under **DATES,** second paragraph, eighth and ninth lines.

2. On page 55702, middle column, in the table, under Compliance date.

3. Page 55704, first column, § 469.30, second line of paragraph (b).

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 82-470]

Elimination of Certain Restrictions on Non-Voice Operations in the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects the omission of certain text in the adopted rules regarding station identification.

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Land Mobile and Microwave Division, (202) 634–2443.

Erratum

In the matter of amendment of Part 90 of the Commission's Rules and Regulations to eliminate certain restrictions on non-voice operations in the Private Land Mobile Radio Services; PR Docket No. 82–470.

Released: December 30, 1983.

The Report and Order, FCC 83–20, in the above-titled matter, released January 31, 1983, is corrected as follows:

Appendix, instruction 4: paragraph (a) of § 90.425 is corrected by adding the words, "or system," in the first sentence to read as follows:

§ 90.425 Station identification.

* * * * *

(a) Identification procedure. Except as provided for in paragraph (d) of this section, each station or system shall be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each 15 minutes (30 minutes in the Public Safety and Special Emergency Radio Services) during periods of continuous operation. The call sign shall be transmitted by voice in the English language or by International Morse Code in accordance with paragraph (b) of this section. If the station is employing either analog or digital voice scrambling, or non-voice emission, transmission of the required identification shall be in the unscrambled mode using A3 or F3 emission, or International Morse, with all encoding disabled. Permissible

alternative identification procedures are as follows:

* * * * *

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-393 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Removal of Epioblasma (=Dysnomia) sampsoni, Sampson's Pearly Mussel, from the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service is removing *Epioblasma* (=*Dysnomia*) *sampsoni* (Lea, 1861), Sampson's pearly mussel, from the U.S. List of Endangered and Threatened Wildlife. This action is based on a review of all available data, which indicate that this species is extinct. This mussel was restricted to portions of the Wabash River in Illinois and Indiana and the Ohio River near Cincinnati. No specimens have been collected in over 50 years despite repeated sampling within its range. Removing the species from the list recognizes its extinction and removes Federal protection under the Endangered Species Act.

DATE: This rule becomes effective on February 8, 1984.

ADDRESSES: Questions concerning this action may be addressed to the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials received will be available for public inspection, by appointment, during normal business hours by contacting the Regional Endangered Species staff at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. James M. Engel, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725-3276).

SUPPLEMENTARY INFORMATION:

Background

Epioblasma sampsoni was described by Lea (Lea, Isaac. 1861. Proceedings of the Academy of Natural Sciences of Philadelphia 13:392) and was originally listed as Endangered on June 14, 1976 (41 FR 24064). The Service's listing regulations at 50 CFR 424.20 state that, at least once every 5 years, the Director shall conduct a review of each listed species to determine whether it should be removed from the list, be changed from an Endangered to a Threatened status, or be changed from a Threatened to and Endangered status. As part of this review process, the Service contracted with Dr. Arthur Clarke to determine the present status of this species. The status review was initiated in 1981.

Dr. Clarke has recently completed a survey of the historic range of *Epioblasma sampsoni*. During the course of the survey, Dr. Clarke interviewed many commercial clammers and shell buyers. These individuals were shown specimens of *E. sampsoni* and illustrations of the species were given to the individuals. Mr. Virgil Carroll of Mt. Carmel, Illinois, Mr. Nelson Cohen of Terre Haute, Indiana, and Mr. David Nelson of Newport, Indiana, provided the most information. These individuals indicated that to their knowledge nothing ever resembling *E. sampsoni* has been seen from the Wabash or White Rivers for decades. Other clammers were consulted and together their combined expertise covered the Wabash River from its mouth to more than 350 miles upstream. A substantial reward was offered for information concerning *E. sampsoni* and this effort was also unsuccessful in discovering extant populations of the species. The gravel and sand bars, where this species was historically found, no longer exist in the Ohio River from the vicinity of Cinicinnati to the mouth of the Wabash. A series of dams have been constructed in this area, eliminating the gravel and sand bar habitat.

Records also exist from an unknown location in Tennessee. Dr. Clarke feels that, since this record is far out of the range otherwise known for the species, it is incorrect. Meyer (1974) and Clark (1976) did not find any *E. sampsoni* specimens during their surveys. Dr. Clarke was unable to find specimens or recent evidence of this species. He believes it to be extinct and has recommended that it should be removed from the List of Endangered and Threatened Wildlife. Based on this information, the Service proposed to remove Sampson's pearly mussel from the List (July 15, 1983; 48 FR 32534-32535).

Summary of Comments and Recommendations

In the July 15, 1983, Federal Register, the proposed rule to deregulate Sampson's pearly mussel asked all interested parties to submit their comments. All comments relating to the existence of Sampson's pearly mussel were considered in the present status determination. A total of three comments were received that dealt specifically with the delisting proposal.

Two of the three comments came from the state resource and conservation agencies of the two affected states, Illinois and Indiana. The third comment came from the Museum of Zoology of the Ohio State University. All supported the removal of Sampson's pearly mussel from the list. Both the Indiana Department of Natural Resources and the Illinois Department of Conservation reported that numerous surveys over the past 50 years have revealed no live specimens. The Ohio State University Museum of Zoology reported that a re-examination of nearly all major museum collections did not find any evidence of Sampson's pearly mussel being found alive or as a fresh shell during the twentieth century.

Summary of Status Findings

After a careful review and examination of all available data, the Service has determined that Sampson's pearly mussel is extinct and no longer requires protection pursuant to the Endangered Species Act of 1973, as amended. If evidence to the contrary is presented at a later date, Endangered or Threatened status may be reproposed.

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; under revision to accommodate 1982 amendments, cf. 48 FR 29990, June 29, 1983) set forth the criteria for determining whether any species is an Endangered or a Threatened species due to one or more of the five factors described in Section 4(a)(1) of the Act. The regulations state the factors for removing a species from the list. The data used to support such a removal must be the best scientific and commercial data available to substantiate that the species is neither Endangered or Threatened because of extinction, recovery of the species, or because the original data for classification were in error. The factors in Section 4(a)(1) of the Act and 50 FR 424.11(b), and their application to Sampson's pearly mussel are as follows:

A. *Present or threatened destruction, modification, or curtailment of its habitat or range.* This species has not been collected alive for over 50 years and is believed to be extinct. The gravel and sand bars that were the primary habitat of this species in the Ohio River have been destroyed by siltation that

resulted from the construction of a number of dams. Chemical pollutants have also contributed to a decrease in water quality in the Ohio and Wabash Rivers.

B. *Overutilization for commercial, recreational scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms.* Not applicable.

E. *Other natural or manmade factors affecting its continued existence.* Not applicable.

Effects of the Rule

The rule removes Sampson's pearly mussel from the List of Endangered and Threatened Wildlife and discontinues all protections of the mussel and its habitat accorded by its listing as Endangered under provisions of the Endangered Species Act of 1973, as amended. Sampson's pearly mussel is listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The Service will also consider proposing the removal of this species from Appendix I or annotation of the listing as "p.e." (possibly extinct):

National Environmental Policy Act

In accordance with a recommendation from the Council on Environmental Quality (CEQ), the Service has not prepared any NEPA documentation for this final rule. The recommendation from CEQ was based, in part, upon a decision in the Sixth Circuit Court of appeals, which held that the preparation of NEPA documentation was not required as a matter of law for Section 4 actions under the Endangered Species Act. *PLF v. Andrus* 657 F. 2d 829 (6th Cir. 1981).

References

Clark, C. F. 1976. The freshwater naiades of the lower end of the Wabash River, Mt. Carmel, Illinois to the south. Sterkiana, No. 61. pp 1–14.

Clarke, A. H. Determination of the precise geographical areas occupied by four endangered species of mollusks. Final Report to U.S. Fish and Wildlife Service on Contract No. 14–16003–81–019. December, 1981.

Meyer, E. R. 1974. Unionid mussels of the Wabash, White, and East Fork of the White Rivers, Indiana. *Virginia Journal of Science* 25(1):20–25.

Author

The primary author of this final rule is John G. Sidle, Office of Endangered Species, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725–3276).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants, (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

§ 17.11 [Amended]

2. Amend § 17.11(h) by removing Sampson's pearly mussel (*Epioblasma (=Dysnomia) sampsoni*) under "Clams" from the list of Endangered and Threatened Wildlife.

Dated: December 12, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84–420 Filed 1–6–84; 8:45 am]

BILLING CODE 4310–55–M

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50 CFR Part 23

Export of American Alligators Taken in 1983–85 Harvest Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final findings and rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. As a general rule, exports of animals and plants listed in Appendix II of CITES may occur only if a Scientific Authority (SA) has advised a permit-issuing Management Authority (MA) that such exports will not be detrimental to the survival of the species, and if the MA is satisfied that the animals or plants were not obtained in violation of laws for their protection. This notice announces final findings by the SA and MA of the United States on the export of American alligators. Previously, such findings were made each year on a State-by-State basis. Beginning this year, the Service intends to make such findings to span a period of three harvest seasons (1983–85).

DATE: These findings are effective on January 9, 1984.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C., 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday through Friday, at the Office of the Scientific Authority, room 537, 1717 H Street, NW., Washington, D.C. or at the Federal Wildlife Permit Office, room 621, 1000 N. Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Scientific Authority Finding—Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5950.

Management Authority Finding—Mr. S. Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–2418.

Export Permits—Mr. Richard K. Robinson, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–1903.

SUPPLEMENTARY INFORMATION: This is the second of two notices concerning the Service's findings on export of American alligators taken in the 1983–85 seasons. The first notice (48 FR 37494; August 18, 1983) announced proposed findings by the SA and MA of the United States on the export of this species and certain other Appendix II animal species native to this country. The Service invited comments at that time on State-by-State export findings for various Appendix II species.

The present notice of final findings concerns only the alligator. Final export findings for other species addressed in the August 18, 1983, notice will be announced later in a separate notice.

Scientific Authority (SA) Findings

Article IV of CITES requires that an export permit for any specimen of a species included in Appendix II shall only be granted when certain findings have been made by the SA and MA of the exporting country. The SA must advise "that such export will not be detrimental to the survival of that species" before a permit can be granted.

The SA for the United States must develop such advice on nondetriment for the export of Appendix II animals in accordance with Section 8A of the Endangered Species Act of 1973, as amended in 1982. The Act states that the Secretary of the Interior "shall base the determinations and advice given by him under Article IV of the Convention with respect to wildlife upon the best available biological information derived from professionally accepted wildlife

management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice."

The American alligator is considered to be listed in Appendix II to respond both to problems of potential threat to the survival of American alligators [CITES Article II 2(a)] and similarity in appearance to other crocodilians that are threatened with extinction [CITES Article II. 2(b)]. The recently concluded 10-year review of the appendices confirmed the suitability of this treatment, as set forth in the proposal that the Conference of the Parties adopted in 1979 to place this species in Appendix II. The Service will address the issue of similarity in appearance through tagging of hides and documentation of shipments, as it does with furbearers. Because the alligator is listed partly because of a potential threat to its survival (based on previous population declines that have been reversed in certain parts of the United States), the Service also must determine if exports will not be detrimental to the survival of the American alligator itself.

Guidelines developed for SA advice on exports of alligators under the provisions of CITES Article II.2(a) have been revised to conform with the 1982 amendments to the Endangered Species Act (see 48 FR 16494, April 18, 1983). They are as follows:

A. Minimum requirements for biological information:

(1) Information on the condition of the population, including trends (the method of determination to be a matter of State choice), and population estimates where such information is available.

(2) Information on total harvest of the species.

(3) Information on distribution of harvest.

(4) Habitat evaluation.

B. Minimum requirements for a management program:

(1) There should be a controlled harvest, methods and seasons to be a matter of State choice.

(2) All hides should be registered and marked.

(3) Harvest level objectives should be determined annually by the States.

The Service finds that current information on population status, management, and harvest submitted by the States of Florida and Louisiana, as well as that collected by the Service fully support a finding that the export of alligators taken in accordance with State regulations in Florida and Louisiana will not be detrimental to the survival of the species in those States. Tagging of hides by the States and documentation of shipments by the MA provide assurance that export will not reduce the effectiveness of CITES in controlling trade in other species of crocodilians. Documents containing information that provides the basis for SA advice for alligators in each of these States are available for public inspection at the Office of the Scientific Authority (address given above).

Management Authority (MA) Findings

Exports of Appendix II species are to be allowed under CITES only if the MA is satisfied that the specimens were not obtained in contravention of laws for the protection of wildlife or plants. The Service, therefore, must be satisfied the hides were not obtained in violation of State or Federal law, in order to allow export. Evidence of legal taking for American alligator is provided by State tagging systems. The Service requires that each alligator hide must be tagged by a permanently attached, serially numbered tag of a type approved by the Service that is attached under conditions established by the Service. Tags must clearly identify hides as to species, State of origin, and season of taking. MA export guidelines for the 1983–85 taking seasons are as follows:

(1) Current State hunting, trapping and tagging regulations and sample tags must be on file with the Service (Wildlife Permit Office);

(2) The tags must be durable and permanently locking, and must show State of origin, year of take, species and be serially unique;

(3) The tag must be applied to all hides taken within a minimum time after take, as specified by the State, and such time should be as short as possible to minimize movement of untagged hides.

(4) The tag must be permanently attached as authorized and prescribed by the State;

(5) State-registered dealers or State-licensed takers allowed by the State to attach tags must account for tags received and must return unused tags to State within a specified time after taking season closes; and

(6) Fully manufactured hide products may be exported from the U.S. when accompanied by State tags removed from hides contained in the products; such tags must be surrendered to the Service prior to export.

The Service has reviewed the alligator tagging programs of Florida and Louisiana and has found that they fully meet these guidelines.

Export Approval

The Service received no comments in response to the notice of proposed findings with particular reference to alligators with the exception of information provided by State wildlife agencies of Florida and Louisiana. Defenders of Wildlife, Inc., submitted comments on the proposed export findings as they pertained to certain mammal species. Their comments on MA guidelines, while directed at bobcats, might also apply to alligators. Defenders urged the Service to require possession tagging of all pelts taken, and permanent tagging by State officials as prerequisites of export approval. Florida and Louisiana have, in fact, used these tagging procedures together with other control measures. These control measures have been a model for crocodilian tagging programs elsewhere in the world. The Service has decided to approve the export of American alligators lawfully taken during the 1983–85 seasons in Florida and Louisiana on the grounds that both SA and MA criteria have been met.

For all other States not named above, either the taking of this species is not yet allowed by the State, the species does not occur in the State, or the State did not provide the Service with information on which to base SA and MA findings. The Service does not grant general approval for export of specimens of this species originating in such States.

The findings announced in this notice are effective immediately. It is the Service's opinion that a delay in the effective date of the regulations after this final rulemaking is published could adversely impact the species by preventing the international marketing of hides (where commercial harvest is an important part of the State conservation programs), and thereby reducing the incentive for takers or dealers to comply with State requirements in Florida and Louisiana. The 1983 harvest season already has passed in Louisiana, so that a delay in the effective date of this rule would penalize exporters of lawfully taken hides. The rule extends export approval for the same State that were approved for export in the previous five years without any adverse public comment. The Service, therefore, finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, for these regulations to take effect immediately upon publication. Further, because this rule relieves a restriction on export, it may take effect immediately under 5 U.S.C. 553(d)(1).

This rule is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531, et seq.; 87 Stat. 884 as amended). It was prepared by Dr.

Richard M. Mitchell, Office of the Scientific Authority, and Mr. S Ronald Singer, Federal Wildlife Permit Office.

Note.—The Department has determined that the final findings on the export of American alligator taken in the 1983–85 seasons are not a major Federal action that would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act and therefore the preparation of an Environmental Impact Statement is not required. The Department also has determined that this is not a major rule under Executive Order 12291 and does not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601). The findings will allow a continuation of the export of specimens taken in accordance with State programs that have operated for several years without adversely affecting the resource. The findings do not contain any information collection or recordkeeping requirements as defined by the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Exports, Fish, Imports, Plants (agriculture), Treaties.

Regulation Promulgation

Accordingly, Part 23 of Title 50, Code of Federal Regulations, is amended as set forth below:

PART 23—ENDANGERED SPECIES CONVENTION

1. The authority citation for Part 23 reads as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249, and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531–43.

2. In § 23.57, add new paragraph (e) as follows:

§ 23.57 American alligator (Alligator mississippiensis).

* * * * *

(e) 1983–85 harvest seasons (animals harvested on or before December 31, 1985): Florida, Louisiana. Condition on export: Each hide must be clearly identified as to species, state of origin and season of taking and must be tagged by a permanently attached, serially numbered tag of a type approved by the Service that is attached under conditions established by the Service.

Dated: December 15, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-419 Filed 1-6-84; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 40103-01]

Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Rule-related notice; fishery specifications for 1984.

SUMMARY: This notice announces the 1984 management specifications for Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish caught in the fishery conservation zone (3–200 nautical miles from shore) and territorial waters (0–3 nautical miles from shore) off the coasts of Washington, Oregon, and California. This notice contains specifications for the acceptable biological catch as well as for optimum yield and its distribution among domestic and foreign fishing operations for goundfish species or species groups, as required in the regulations implementing the Pacific Coast Groundfish Fishery Management Plan.

EFFECTIVE DATE: January 1, 1984.

ADDRESSES: T. E. (Gene) Kruse, Deputy Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, Washington 98115 or Floyd S. Anders, Jr., Acting Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island California, 90731.

FOR FURTHER INFORMATION CONTACT: T. E. (Gene) Kruse at 206–527–6150 or Floyd Anders, Jr. at 213–548–2575.

SUPPLEMENTARY INFORMATION:

Background

OMB Control Number 0648–0114. The Pacific Coast Groundfish Fishery Management Plan (FMP) was approved by the Assistant Administrator for Fisheries, NOAA, on January 4, 1982. The FMP and its implementing regulations at 50 CFR Part 663 (47 FR 43964, published on October 5, 1982) state that management specifications for groundfish included in the FMP will be evaluated each calendar year, that preliminary specifications will be published in the Federal Register, public comment will be requested, and final specifications for the succeeding calendar year will be published on December 1, or as soon as practicable thereafter. The management specifications for the acceptable biological catch (ABC), an estimate of the annual catch that could be taken without jeopardizing a resource's productivity, include all groundfish species. The specifications for the optimum yields (OYs), which are based on socioeconomic as well as biological factors thus are not necessarily equal to the ABC, are made only for Pacific whiting, sablefish, Pacific ocean perch, shortbelly rockfish, and widow rockfish. The OYs for these five species set the maximum amounts of fish (in round weight) that may be taken and retained or landed each year from the fishery conservation zone (3–200 nautical miles) and the territorial sea (0–3 nautical miles) off Washington, Oregon, and California.

The OY for each of these five species comprises several components that will be reassessed near July 1. The domestic annual harvest (DAH), which consists of estimates of domestic annual processing (DAP) and joint venture processing (JVP), is verified by surveys in November and June of the needs of the domestic fishing and processing industry. The total allowable level of foreign fishing (TALFF) is the remainder, if any, of OY after domestic needs (DAH) have been subtracted. A reserve is established for Pacific whiting to accommodate any underestimates in DAH.

The OYs and ABCs may be changed during the year under the procedures outlined in the regulations at 50 CFR 663.22.

The Pacific Fishery Management Council (Council) reviewed and approved the preliminary specifications for 1984 and received public comment at its November 9–10, 1983 meeting in Boise, Idaho. The preliminary specifications were announced in the Federal Register on December 6, 1983 (48 FR 54671) and public comment was invited through December 21, 1983. No comments were received. Accordingly, no changes have been made to the preliminary specifications. For a discussion of the specifications for each species with a numerical OY and changes made to the 1983 estimates, see the Federal Register notice announcing the preliminary specifications. The 1984 final management specifications are listed in Tables 1 and 2.

Classification

These preliminary specifications are made under the authority of 50 CFR 663.24. This action is in compliance with Executive Order 12291 and is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fish, Fisheries, Fishing.

Dated: January 3, 1984.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

TABLE 1.—1984 SPECIFICATIONS OF ABC

(In thousands of metric tons)

Species/areas	Vancouver [1]	Columbia	Eureka	Monterey	Conception	Total
Groundfish:						
Lingcod	1.0	4.0	0.5	1.1	0.4	7.0
Pacific cod	2.2	0.9	(*)	(*)	(*)	3.1
Pacific whiting						[3] 175.5
Sablefish				[4] 2.5		[3] 13.4
Rockfish:						
Pacific ocean perch	0.6	0.95	(*)	(*)	(*)	1.55
Shortbelly						[3] 10.0
Widow	0.3	5.4	1.8	1.8	(*)	9.3
Other rockfish: [5]						
Bocaccio	(*)	(*)	(*)	4.1	2.0	6.1
Canary	0.8	1.3	0.6	(*)	(*)	2.7
Chilipepper	(*)	(*)	(*)	1.3	1.0	2.3
Yellowtail	1.4	1.5	0.3	(*)	(*)	3.2
Remaining rockfish	0.5	3.7	1.9	4.3	3.3	13.7
Flatfish:						
Dover sole	2.4	7.2	8.0	5.0	1.0	23.6
English sole	0.6	2.0	0.8	0.9	0.2	4.5
Petrale sole	0.6	1.1	0.5	0.8	0.2	3.2
Other flatfish (except arrowtooth flounder)	0.7	3.0	1.7	1.8	0.5	7.7
Other fish: [6]						
Jack mackerel [7]						12.0
Others	2.5	7.0	1.2	2.0	2.0	14.7

[1] U.S. portion.
[2] These species are not common or important in the area footnoted. Accordingly, for convenience, Pacific cod is included in the "other fish" category for the areas footnoted, and rockfish species are included in the "remaining rockfish" category for the areas footnoted.
[3] Total all areas.
[4] Monterey Bay only.
[5] "Other rockfish" means rockfish species listed in § 663.2 which do not have a numerical OY.
[6] "Other fish" includes sharks, skates, ratfish, morids, grenadiers, jack mackerel. "Other fish" is part of the "other species" category listed in § 663.2.
[7] North of 39°00' N. latitude.

TABLE 2.—1984 SPECIFICATIONS OF OY AND ITS COMPONENTS

(In thousands of metric tons)

Species	Total OY	DAP	JVP [1]	DAH	Reserve	TALFF [1]
Pacific whiting	175.5	10.0	100.0	110.0	35.0	30.5
Sablefish	[2] 17.4	17.4	0.0	17.4	0.0	0.0
Pacific ocean perch	[3] 1.55	1.55	0.0	1.55	0.0	0.0
Shortbelly rockfish	10.0	3.4	0.0	10.0	0.0	6.6
Widow rockfish	9.3	9.3	0.0	0.3	0.0	0.0
Other species	(4)					

[1] In the foreign trawl and joint venture fisheries for Pacific whiting, incidental catch allowance percentages (based on TALFF) and incidental retention allowance percentages (based on JVP) are: sablefish 0.173%, Pacific ocean perch 0.062%, Rockfish excluding Pacific ocean perch 0.738%, flatfish 0.1%, jack mackerel 3.0%, and other species 0.5%. In foreign trawl and joint venture fisheries, "other species" means all species, including non-groundfish species, except Pacific whiting, sablefish, Pacific ocean perch, rockfish excluding Pacific ocean perch, flatfish, jack mackerel, and prohibited species. In a foreign trawl or joint venture fishery for species other than Pacific whiting, incidental allowance percentages will be stated in the conditions and restrictions to the foreign fishing permit. See § 611.70(c)(2) for application of incidental retention allowance percentages to joint venture fisheries.
[2] Of this 17,400 metric tons, 2,500 metric tons is for part of the Monterey subarea. See § 663.21(a)(2).
[3] Of this 1,550 metric tons, 600 metric tons is for the Vancouver subarea and 950 metric tons is for the Columbia subarea. Pacific ocean perch from other subareas are included in the OY for "other species." See § 663.21(a)(3).
[4] The total OY for "other species" is that amount of fish that may be lawfully harvested and/or processed under § 611.70 and Part 663. See § 663.2 for species listing.

[FR Doc. 84-453 Filed 1-4-84; 3:20 pm]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 31230-251]

Groundfish of the Gulf of Alaska

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: 1984 initial specifications.

SUMMARY: NOAA specifies 1984 initial apportionments of optimum yield (OY) for each species of groundfish in the Gulf of Alaska fishery among the domestic annual processing (DAP), joint venture processing (JVP), reserves, and total allowable level of foreign fishing (TALFF). This action is necessary to provide the public with the final determination of the amounts of initial apportionments. The 1984 apportionments are intended to provide for full utilization of the groundfish resources.

DATES: Effective on January 1, 1984. Comments on the reapportionment to TALFF of Pacific cod reserves in the Central Regulatory Area and sablefish reserves in the West Yakutat district are invited until January 23, 1984.

ADDRESS: Comments on the Pacific cod and sablefish reserve reapportionments may be sent to Janet Smoker, Fishery Biologist, Alaska Region, National Marine Fisheries Service (NMFS), P.O. Box 1668, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet Smoker, 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields for various groundfish species are established by the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This FMP was developed under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and is implemented by rules appearing at 50 CFR 611.92 and Part 672. The OYs are apportioned initially among DAP, JVP, reserves, and TALFF under 50 CFR 611.92(c) and 672.20.

DAP amounts are intented for harvest by United States (U.S.) fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. The reserves are for reapportionment to DAP and/or to JVP if those amounts are underspecified. Reserves not reapportioned to DAP or JVP are reapportioned to TALFF.

Under § 672.20(a)(2), the Secretary of Commerce (Secretary) is required to publish this notice to establish the 1984 initial apportionments of the OYs among DAP, JVP, reserves, and TALFF. The initial apportionments of DAP and JVP are the amounts harvested during 1983 plus additional amounts the Secretary has determined will be harvested by the U.S. industry in 1984. These additional amounts reflect the projected increases in U.S. processing and harvesting capacity and expected level of U.S. processing and harvesting during the coming year.

Proposed initial amounts were first published in the Federal Register on November 1, 1983 (48 FR 50379). The proposed amounts were determined following a survey of the industry conducted by the Alaska Region of the National Marine Fisheries Service (NMFS). The results of the survey were studied by the North Pacific Fishery Management Council (Council), which

then recommended to the Secretary that the proposed amounts be published for comment.

Comments were invited on these proposed apportionments until December 8, 1983. One letter of comments was received by the Director, Alaska Region, NMFS (Regional Director). Tentative final specifications of initial DAP, JVP, reserves, and TALFF were presented to the Council for consideration at its December 7–9 meeting. At that meeting, further public comments were invited. After considering comments addressed to the Council and recommendations from the Council's Advisory Panel and Scientific and Statistical Committee, the Council approved the specifications and recommended them to the Secretary for implementation. A particular recommendation of the Council to the Secretary that had not been proposed previously was that 3,000 mt from the reserve of Pacific cod in the Central Regulatory Area should be reapportioned to TALFF to support a limited foreign longline fishery for Pacific cod.

The FMP specifies that 20 percent of the OY for each target species and the "other species" category be reserved for reapportionment on the basis of cumulative appraisals of DAH to foreign or domestic fisheries as the season progresses. Thus, initial apportionments to DAH normally do not exceed a maximum of 80 percent of OY. However, under 50 CFR 611.92(c)(ii)(A)(2) and 672.20(c)(1), reserves may be reapportioned to DAH or TALFF by the Secretary on such dates as he determines necessary. In the notice that proposed the initial apportionments on the basis of the NMFS survey results, the Secretary made the finding that: (1) The entire reserve for pollock in the Central Regulatory Area would be harvested by U.S. fishermen in joint ventures and therefore it was reapportioned to JVP effective January 1, 1984; (2) 140 mt of the reserve for Pacific ocean perch in the Western Regulatory Area would be harvested by U.S. fishermen and therefore it was reapportioned to JVP, effective January 1, 1984; and (3) reserves for sablefish in the East Yakutat and Southeast Outside districts are not applicable, because no foreign fishing is permitted in these districts.

After considering the Council's recommendations and public comments concerning the specifications for Pacific ocean perch, the Secretary rescinds the finding that 140 mt of the initial reserve needs to be allocated to JVP on January 1, 1984, and this amount is reapportioned to the reserve.

The Secretary concurs with the Council's determinations that additional amounts of Pacific cod and sablefish will be required by U.S. fishermen and processors than the estimates originally published at 48 FR 50379.

In the Central Regulatory Area, 26,300 mt of Pacific cod is apportioned to DAH. Of this amount, 3,000 mt is taken from the initial reserve of 20 percent of OY. The TALFF of 3,532 mt of Pacific cod in this area, in addition to supporting the foreign longline fishery, will provide an adequate bycatch level for the foreign pollock fisheries, thus promoting fuller utilization of groundfish resources.

In the Yakutat district, the entire initial 80 percent of OY, 1,344 mt, of sablefish is apportioned to DAH. To provide the bycatch necessary to support the foreign longline fishery for Pacific cod in this area, 40 mt of sablefish is apportioned to TALFF from the reserve, as of January 1, 1984.

The revised figures are set forth below in Table 1.

Additional Public Comments Requested

Under 50 CFR 611.92(c)(ii)(C)(4)(i) and 672.20(c)(iv)(A)(3), the Secretary finds that reapportionments of these reserves to TALFF are necessary to assure the orderly conduct of foreign fisheries starting January 1, 1984; that affording a prior opportunity for comment is impracticable and contrary to the public interest; and that the reapportionments should go into effect immediately. Comments are invited as specified under DATES of this notice. In light of any substantial comments, the Secretary may issue a subsequent notice to either affirm, amend, or rescind the reserve reapportionments.

Public Comments Received

The Regional Director received one letter of comments from the Fisheries Agency of the Government of Japan on the proposed initial apportionments. These comments are summarized and responded to below;

Comment 1. Optimum yields for pollock and Pacific cod should be increased and part of the OYs for Pacific cod and flounders should be transferred from the Eastern Regulatory Area, where they are underutilized, to the Central Regulatory Area. The OYs for Atka mackerel in the Western and Central Regulatory Areas should be distributed equally.

Response. Increasing or redistributing any OYs, which would require an amendment to the FMP, is beyond the scope of this action.

Comment 2. The expansion of joint ventures targeting on species with small OYs, e.g., Pacific ocean perch and sablefish, would prevent the rational utilization of the prime target species, and therefore JVP amounts should be held to the lowest possible levels.

Response. Under the Magnuson Act, the only legal constraint in setting JVP amounts is the consideration of the DAP amounts that will be harvested by U.S. fishermen and delivered to U.S. processors. Any portion of the OY that is surplus to DAP is fully available to JVP.

After considering recommendations from the Council and comments received, the Secretary publishes this final notice prescribing the initial apportionment of each OY among DAP, JVP, reserves, and TALFF. These amounts replace the corresponding amounts for 1983 in § 672.20, Table 1.

Other Matters

This action is taken under 50 CFR 611.92 and complies with Executive Order 12291. A revised version of § 672.20, Table 1, is published below as a part of this notice.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: December 30, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set out in the preamble 50 CFR Part 672 is amended as follow:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for Part 672 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In 672.20, Table 1 at paragraph (a) is revised to read as follows:

§ 672.20 Optimum yield.

* * * * *

TABLE 1.—INITIAL (AS OF JAN. 1, EACH YEAR) OPTIMUM YIELD (OY), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), METRIC TONS. OY=DAH+RESERVE + TALFF; DAH = DAP + JVP

Species	Species code	Areas	OY	DAH	DAP	JVP	Reserve	TALFF
Gulf of Alaska Groundfish Fishery:								
Pollock	701	Western [1]	57,000	500	200	300	11,400	45,070
		Central [1]	143,000	138,000	5,800	132,000	0	5,000
		Eastern [1]	16,000	800	800	0	3,320	12,880
		Total	216,000	139,300	5,910	132,920	14,720	63,050
Pacific cod	702	Western	10,500	750	500	250	3,312	12,438
		Central	33,540	29,000	11,700	14,600	3,700	3,532
		Eastern	9,000	120	120	0	1,900	7,800
		Total	53,000	27,170	12,300	14,050	9,000	23,830
Flounders	129	Western	10,400	10	0	10	2,000	8,310
		Central	14,700	8,700	100	8,600	2,940	3,040
		Eastern	8,400	300	300	0	1,600	6,420
		Total	33,500	9,003	400	8,600	6,700	17,770
Pacific ocean perch [2]	760	Western	2,700	1,770	0	1,770	540	390
		Central	7,900	2,000	600	2,000	1,520	3,700
		Eastern	875	400	400	0	175	240
		Total	11,475	4,000	1,000	3,770	2,235	4,330
Other rockfish [3]	549	Total	7,000	805	305	500	1,520	5,185
Sablefish [4]	703	Western	1,070	300	100	200	334	1,003
		Central	3,000	1,000	1,000	200	612	793
		West Yakutat [5]	1,000	1,344	1,344	0	235	43
		East Yakutat [5]	650–	650–	650–	0	N/A	N/A
			1,135	1,135	1,135			
		Southeast Outside [5]	470–1,435	470–1,435	470–1,435	0	N/A	N/A
		Total	7,700	4,614	4,124–	400	1,232	1,834
			9,600	5,604	5,374			
Atka mackerel	207	Western	4,570	800	400	400	936	2,842
		Central	20,000	1,500	0	1,500	4,167	15,163
		Eastern	3,100	0	0	0	637	2,543
		Total	27,700	2,300	400	1,900	5,740	20,550
Squid	509	Total	5,000	110	100	10	1,000	3,890
Thornyhead rockfish	749	Total	3,700	200	150	50	700	2,800
Other Species [6]	499	Total	10,710	500	100	400	3,744	14,474

[1] See figure 1 of section 672.20 for description of regulatory areas and districts.
[2] The category "Pacific ocean perch" includes *Sebastes* species *S. alutus* (Pacific ocean perch), *S. polyspinus* (northern rockfish), *S. aleutianus* (rougheye rockfish), *S. borealis* (shortraker rockfish), and *S. zacentrus* (sharpchin rockfish).
[3] The category "other rockfish" includes all fish of the genus *Sebastes* except the category "Pacific ocean perch" as defined in footnote 2 above and *Sebastolobus* (thornyhead rockfish).
[4] Excludes values for the Southeast Inside District, which is not governed by these regulations.
[5] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus. The OY is equal to 5% of the target species OYs.

* * * * *

[FR Doc. 84-241 Filed 1-6-84; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 31230-250]

Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: 1984 initial specifications.

SUMMARY: NOAA announces initial specifications for total allowable catch (TAC) amounts for the Bering Sea and Aleutian Islands area target groundfish species and the "other species" category and apportionments of those TACs between domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF) for the 1984 fishing year. NOAA also announces the apportionment of reserves to TALFF for specific target species. These actions are intended to ensure full use of groundfish resources, meet the anticipated needs of the U.S. fishing industry, and allow the foreign and domestic fisheries to proceed without unnecessary interruption.

DATE: Effective January 1, 1984. Comments on the apportionment of reserves to TALFF are invited until January 23, 1984.

ADDRESSES: Comments may be mailed to Robert W. McVey, Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, or delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska. Copies of the resource assessment document upon which the TACs are based may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510; 907-274-4563.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907-586-7221; or Janet Smoker (Fishery Biologist), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The final rule implementing Amendment 1 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) was published in the Federal Register on January 4, 1984 (49 FR 386). Among other actions, the final rule sets forth the procedure by which TAC, DAH, and TALFF amounts are determined annually for each target species and the "other species" category. Consistent with this procedure, NOAA issued a proposed rule-related notice (48 FR 50586,

November 2, 1983) that solicited public comment on preliminary fishery specifications for 1984. At its December 7–9, 1983, meeting, the North Pacific Fishery Management Council (Council) reviewed public comments received on the preliminary specifications along with recent analyses of new resource surveys and commercial fishery data, and recommended to the Secretary of Commerce (Secretary) numerous changes to those specifications. The Secretary has adopted the Council's revised recommendations as the initial fishery specifications for 1984 (Table 1).

Amendment 1 to the FMP, at 50 CFR 611.93(a)(3), establishes the OY for target species and the "other species" category to be not less than 1.4 million metric tons (mt) and not more than 2.0 million mt. The Council approves the higher limit as the cumulative TAC for 1984.

The Council's final recommendations for the 1984 fishery specifications reflect revisions made to the proposed TAC amounts based on: (1) A November 1983 supplement to the Council's resource assessment document, which is available at the above address; (2) the effect of various TACs on the development of the U.S. groundfish fishery, prohibited species, and operations of major existing fisheries; and (3) the need to rebuild depressed groundfish stocks. Revisions to the amounts of groundfish specified as the domestic annual processing (DAP) and joint venture processing (JVP) components of DAH reflect updated information on the anticipated U.S. production and harvest of Bering Sea and Aleutian Islands area groundfish during 1984 by various sectors of the U.S. fishing industry. The TALFF amounts have also been adjusted according to the procedure set forth in thr final rule implementing Amendment 1, i.e., TALFF equals 0.85 times TAC minus DAH. When this procedure resulted in a zero or inadequate initial TALFF, portions of the pooled total reserve were apportioned to TALFF for specific species to avoid operational problems in the foreign fishery. As set forth in the final rule implementing Amendment 1, the initial total reserve amount equals 15 percent of the cumulative TAC for target species and the "other species" category and may be apportioned to any species or species group at any time of the year provided that overfishing does not result.

Specific changes to the proposed 1984 TACs and associated fishery apportionments and the rationale for those changes are as follows:

Pollock: The 1,200,000 mt TAC established for pollock in the eastern Bering Sea and the 100,000 mt TAC established for pollock in the Aleutian Islands area equal the estimated equilibrium yields (EY) for pollock in these areas and are increases over the proposed TACs of 1,067,710 mt and 88,980 mt, respectively. DAH is projected to increase significantly in 1984 and the Council found no reason why the TACs for pollock should not equal EY. Furthermore, a great proportion of Bering Sea pollock stocks consists of large fish from the 1978 year class and, according to ecosystem interaction considerations, such fish should be harvested to reduce cannibalism on juvenile pollock. The amount of pollock in the Bering Sea designated as DAP was increased from 14,762 mt to 18,200 mt and the JVP was decreased from 293,000 mt to 253,000 mt. Both of these latter changes were based on additional information submitted by the U.S. fishing industry on its projected harvest and/or production of pollock in 1984. The remainder of the pollock TACs in the Bering Sea and Aleutian Islands area available for initial apportionment to the fishery, or 748,800 mt and 81,500 mt, respectively, is apportioned to TALFF.

Pacific cod: The 210,000 mt TAC for Pacific cod is a 48,920 mt decrease from the 258,920 mt figure initially proposed. The Council's decision to reduce the TAC took into account the projected rapid decline of Pacific cod in immediate future years, the rapidly increasing development of a U.S. target fishery, and the amounts of Pacific cod necessary for a reasonable bycatch in the foreign pollock fishery. The U.S. fishery anticipates harvesting 131,600 mt of Pacific cod in 1984. A 210,000 mt TAC for this species will therefore provide the foreign fisheries with a 46,900 mt TALFF. This TALFF amount approximates the average 1977–1982 foreign Pacific cod catch of 50,400 mt and should provide a sufficient bycatch amount for the foreign pollock trawl fishery and a small amount for foreign longline target fisheries. The established TAC is an 81,300 mt reduction from EY which, if not harvested in 1984, will contribute an additional 36,700 mt (assuming a natural mortality rate of 0.6) to the Pacific cod biomass in 1985. In view of the anticipated decline in stocks, due to weak year classes entering the fishery in 1984 and 1985, and the increasing DAH, this additional biomass will likely be needed to serve the needs of both the domestic and foreign fisheries in 1985 and later.

Turbots: The TAC for turbots was unchanged from the proposed figure and remains at 59,610 mt, or 7,890 mt below the combined EY for this group. Setting the TAC at 59,610 mt may constrain the foreign target fishery for turbots, but this level of TAC is considered necessary in view of the declining recruitment levels of Greenland turbot. A directed U.S. fishery for turbots is not anticipated during 1984 and only a bycatch amount of 120 mt is apportioned to DAH. Initial TALFF, therefore, is 50,550 mt, or 8,250 mt less than the average 1977–1982 foreign catch of 58,800 mt.

Pacific Ocean perch: The TAC for Pacific ocean perch in the Bering Sea remains unchanged and is set at 1,780 mt, or slightly higher than the low end of the EY range (1,360 mt). The apportionment of TAC among its components differs from that proposed to allow a JVP of 150 mt and a TALFF of 810 mt. This TAC level is not likely to be additionally detrimental to the biological status of the resource, which is in a depressed state, and it will provide for limited U.S. production of Pacific ocean perch and for an adequate bycatch level in U.S. joint ventures and foreign trawl fisheries.

The 2,700 mt TAC established for Pacific ocean perch in the Aleutian Islands area is a 6,820 mt reduction from the proposed TAC of 9,520 mt. The reduced TAC will meet the directed needs of both U.S. processors and joint venture operations, but results in a zero TALFF. Therefore, 650 mt is apportioned to TALFF from the pooled reserve to provide an adequate bycatch amount for other foreign target fisheries. This reserve apportionment is not likely to be additionally detrimental to the biological status of the resource. The reduced TAC of Pacific ocean perch in the Aleutian Islands region will contribute to the rebuilding of the resource, which is relatively more desirable in this region because a U.S. target fishery for this species is more likely to develop here than in the eastern Bering Sea.

Other rockfish: As in the case of Pacific ocean perch, stocks of other rockfishes are generally not in good condition. Because limited U.S. target fisheries and foreign bycatch levels can be adequately provided for by setting TAC at 50 percent of EY in both the eastern Bering Sea and the Aleutian Islands area, the Council decided to reduce the TAC level for this species group in the Bering Sea from a proposed figure of 2,760 mt to 1,550 mt and in the Aleutian Islands area from 9,790 mt to 5,500 mt. The JVP amount for this species group has been significantly increased to 4,000 mt in the Aleutian Islands area to provide for the anticipated development of a limited U.S. target fishery in this area during

1984. The reduced TAC levels established for other rockfish will still allow the development of the U.S. fishery and provide sufficient TALFF for bycatch, while maintaining other major foreign target fisheries and promoting the rebuilding of the resource.

Sablefish, Atka mackerel, and Squid: The TACs established for these three species are unchanged from those proposed. The TACs were set below the respective EYs in proportion to the ratio of each EY to the overall EY of the groundfish complex so the aggregate TAC of the complex would not exceed the 2.0 million mt OY limit. The DAH amount for Atka mackerel has been increased and now equals 85 percent of the TAC, or 19,660 mt. Therefore, 1,000 mt of the pooled reserve is apportioned to TALFF to provide for a bycatch in other foreign target fisheries. The amount of Bering Sea sablefish that U.S. processors intend to utilize has also increased to the extent that initial TALFF is no longer sufficient to provide for a bycatch in the foreign trawl fisheries. Therefore, 360 mt from the pooled reserve is apportioned to TALFF for a total Bering Sea sablefish TALFF of 900 mt. These apportionments of reserves to Atka mackerel and sablefish will not have a detrimental effect on stocks because both the Atka mackerel and sablefish TACs were set initially below EY to accommodate the 2.0 million mt total OY limit, and the reserve apportionments to these species will not exceed EY.

Yellowfin sole, Other flatfish, and Other species: These species groups have surplus production that more than adequately serves the needs of the U.S. and foreign fisheries. However, because of the increases in the pollock TACs, their TACs are reduced from those proposed, so that the cumulative TAC of all species equals 2.0 million mt. On this basis, TACs were established as follows: 230,000 mt for yellowfin sole; 111,490 mt for other flatfish; and 40,000 mt for "other species." A further reduction in the TAC for yellowfin sole to accommodate foreign requests to increase TACs for other species groups is not desirable, because yellowfin sole is at a historic high level of abundance and is also increasing rapidly. Harvesting the increased surplus of the species should be encouraged. The DAH amounts for yellowfin sole, othe flatfish, and "other species" were either increased slightly or left unchanged from the amounts proposed. TALFF amounts were decreased to accommodate decreases in TACs.

Public Comments

The Council received and considered numerous comments on the proposed 1984 fishery apportionments prior to determining its final recommendations for the 1984 fishery. In addition, the Director, Alaska Region, received one letter of comments from the Fisheries Agency of the Government of Japan. This set of comments is summarized and responded to below:

Comment 1: Major fluctuations of various species' TACs from year to year based on socioeconomic and biological factors create operational and planning problems for foreign fleets.

Response: Annual changes to TACs for target species and the "other species" category will be made to accommodate status of stocks, other biological concerns, and the development of the U.S. fishing industry. The determination to make such changes, however, will take into account their effect on the existing operations of the major foreign fisheries.

Comment 2: The TACs for pollock, turbots, Pacific ocean perch, and sablefish should be increased and the TACs for yellowfin sole and other flatfish should be decreased as follows: the TACs for pollock in the Bering Sea and Aleutian Islands area should be set at EY levels, or 1,200,000 mt and 100,000 mt, respectively, in view of the good condition of the resource and the expanded U.S.-Japan joint venture target fishery. The TAC for turbots should also be increased to equal the combined EY for this species group, or 85,000 mt, because apparent recent reductions in CPUE are the result of fishery restrictions rather than a deterioration in resource abundance. The TAC for Pacific ocean perch in the Bering Sea should be increased to 2,600 mt due to a probable underestimation of stock abundance. Furthermore, an overly conservative TAC would preclude other foreign target fisheries and would impede the rational implementation of the FMP. In addition, DAP for Pacific ocean perch in the Bering Sea should not exceed 1,000 mt to avoid an overestimation of U.S. production in 1984. The TACs for sablefish should also be increased to equal the EYs, which are 4,430 mt in the Bering Sea and 1,755 mt in the Aleutian Islands area. Finally, in view of the above increases in TACs, there should be a compensating reduction in the TACs for yellowfin sole, other flatfishes, and "other species" to stay within the 2.0 million mt OY limit.

Response: As noted above, the proposed TACs for pollock have been increased to EY levels; however, the proposed TACs for Pacific ocean perch, turbots, and sablefish were either reduced or maintained at levels below EY. The rationale for establishing the TACs below the respective EYs and the resultant fishery apportionments has been presented above and primarily addresses the desire of both the Council and the Secretary to rebuild stocks, while providing for limited U.S. target fisheries and for adequate bycatch levels in other foreign target fisheries. Also, as stated above, the TACs established for yellowfin sole and other flatfishes were reduced to compensate for adjustment in other species' TACs while still maintaining a cumulative TAC of 2.0 million mt.

Comment 3: In view of the fact that 15 percent of the cumulative TAC is put in reserve, care should be taken to avoid excessive estimates of DAP and JVP.

Response: The intitial 1984 specifications for DAP and JVP are based on recent surveys of the U.S. industry and represent the best estimate available on the anticipated U.S. harvest of groundfish in 1984. If a subsequent determination is made by the Secretary that amounts of either DAP or JVP will not be harvested by U.S. fishermen during 1984, such amounts will be available for reapportionment to TALFF consistent with 50 CFR 611.93(b)(2) and 611.75(b).

Other Matters

This action is taken under 50 CFR 611.93(b) and 675.20 and complies with Executive Order 12291.

The Secretary has determined that the 2,010 mt of the pooled reserves apportioned by this notice to TALFF would not have been harvested by U.S. vessels during 1984 because the initial DAP and JVP amounts specified for 1984 are based on recent surveys of the U.S. industry and represent the best estimate available on the projected U.S. harvest of Bering Sea and Aleutian Islands area groundfish. The Secretary has also determined that this reserve apportionment needs to be effective by January 1, 1984, to avoid disruption and confusion in both the conduct and management of the foreign fisheries. The Secretary finds, therefore, that there is good cause for not providing a prior comment opportunity on the reserve apportionment to TALFF, but will accept comments on the apportionment as specified under DATES above. The Secretary will consider all timely comments in deciding whether or not to modify the reserve apportionment to

TALFF and will publish responses to any comments recieved as soon as it is practicable.

List of Subjects in 50 CFR Part 675

Fisheries; Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: December 30, 1983.

Joseph W. Angelovic,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 675—[AMENDED]

For reasons stated in the preamble, 50 CFR Part 675 is amended as follows:

1. The authority citation for Part 675 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 675.20, Table 1 for paragraph (a) is revised to read as follows:

§ 675.20 General limitations.

(a) * * *

TABLE 1.—INITIAL (AS OF JAN. 1, EACH YEAR) TOTAL ALLOWABLE CATCH (TAC), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), RESERVE, AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), IN METRIC TONS (MT). TAC=DAH+RESERVE+TALFF: DAH=DAP+JVP

Species	Species code	Areas	TAC	DAH	DAP	JVP	TALFF
Bering Sea and Aleutian Islands Groundfish Fishery:							
Pollock	701	Bering Sea	1,200,000	271,200	18,200	253,000	749,600
		Aleutians	100,000	3,500	500	3,000	61,500
Yellowfin sole	720		230,000	37,660	1,360	36,500	157,640
Turbots	721–118		59,610	120	20	100	59,550
Other flatfishes	129		111,480	23,360	1,360	22,000	71,410
Pacific cod	702		210,000	131,600	104,400	27,200	46,000
Pacific ocean perch	780	Bering Sea	1,760	700	550	150	810
		Aleutians	2,700	2,295	550	1,745	[1] 650
Other rockfish	849	Bering Sea	1,550	70	50	20	1,245
		Aleutians	5,500	4,050	50	4,000	625
Sablefish	703	Bering Sea	3,740	2,640	2,540	100	[2] 600
		Aleutians	1,600	150	50	100	1,210
Atka mackerel	207		23,130	19,660	230	19,430	[1] 1,000
Squid	509		8,900	40	20	20	7,525
Other Species	499		40,000	5,000	3,000	2,000	29,000
Totals			2,000,000	502,245	132,680	369,385	1,199,765

Fifteen percent of the total TAC, or 300,000 mt, is apportioned to the initial reserve and the remaining TAC is apportioned to DAP, JVP, and TALFF. The reserve may be apportioned to DAP, JVP, or TALFF as needed.[3]

[1] Apportioned from the initial 300,000 mt reserve.
[2] Includes 360 mt apportioned from the initial reserve.
[3] After apportioning the amounts shown in footnote references 1 and 2, the initial pooled reserve consists of 300,000 mt−650 mt−360 mt−1,000 mt=297,990 mt.

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Proposed Rules

Federal Register
Vol. 49, No. 5
Monday, January 9, 1984

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 11 and 13

[Docket No. RM83-57-000]

Payments for Benefits From Headwater Improvements

Issued: December 29, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth a formula for determining an equitable apportionment of the annual charges for interest, maintenance, and depreciation for a storage reservoir or other headwater improvement owned by the United States or its licensee or permittee. Under section 10(f) of the Federal Power Act, the owners of non-Federal power projects which directly benefit from such a headwater improvement must pay an equitable portion of these annual charges. The proposal would provide for apportionment of these costs between the headwater project and downstream projects based on downstream energy gains. The rule proposes an equitable apportionment methodology that can be applied to all river basins in which headwater improvements are built.

DATES: Written comments must be received on or before March 9, 1984.

ADDRESS: Comments must be sent to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

An original and 14 copies must be submitted and should refer to Docket No. RM83-57-000.

FOR FURTHER INFORMATION CONTACT:
Jan Macpherson, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033

Neal Jennings, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 376-9536

SUPPLEMENTARY INFORMATION: December 29, 1983.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend 18 CFR 11.25–11.31 and 13.1, which implement section 10(f) of the Federal Power Act (FPA).[1] Under section 10(f), the owners of non-Federal hydroelectric power projects that are directly benefited by headwater improvements constructed by the United States must pay an "equitable" portion of the annual costs of interest, maintenance, and depreciation of the Federal headwater improvements (hereinafter referred to as "10(f) costs"). This payment is called the headwater benefits charge.

The proposed rule sets forth a generic formula for determining the equitable apportionment of the 10(f) costs. Under the proposed rule, the Commission would calculate headwater benefits charges by apportioning certain annual 10(f) costs (those to be borne by power revenues) among the headwater and downstream projects based on the respective amounts of headwater project and downstream energy attributable to the joint use facilities at the headwater site. Joint use facilities are those which serve more than one purpose and may provide benefits both at the headwater project and at downstream projects. These facilities are primarily the dam and reservoir. In addition, other proposed provisions address the determination of headwater benefits charges on behalf of Federal licensees or permittees whose headwater projects provide direct benefits to downstream projects.

The proposed rule would also specify new procedural mechanisms for streamlining the assessment of headwater benefits charges.

[1] 16 U.S.C. 803(f) (1970 & Supp. V 1981). 18 CFR 11.28 and 11.29, which do not pertain to section 10(f), would merely be redesignated as §§ 11.30 and 11.31 without substantive change.

II. Background

A. Basic Considerations Related to Headwater Benefits Under Section 10(f) of the FPA

Section 10(f) of the FPA provides, in pertinent part, as follows:

> Whenever any licensee hereunder is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the Commission shall require as a condition of the license that the licensee so benefited shall reimburse the owner of such reservoir or other improvements for *such part of the annual charges for interest, maintenance, and depreciation thereon as the Commission may deem equitable.* The proportion of such charges to be paid by any licensee shall be determined by the Commission. The licensees or permittees affected shall pay to the United States the cost of making such determination as fixed by the Commission. (Emphasis added.)

Another portion of section 10(f) imposes a similar obligation to pay headwater benefits charges on unlicensed downstream beneficiaries. Money paid to the United States goes into a special fund for headwater improvements pursuant to section 17 of the FPA.

Upstream headwater improvements can directly benefit downstream power projects in several ways. Most importantly, a release of water from a headwater storage facility can make possible additional electric power generation at a downstream project at times of reduced river flow. This energy gain is the direct result of the operation of the upstream dam and reservoir facilities. As mentioned above, section 10(f) requires that an "equitable" portion of the interest, maintenance, and depreciation on these upstream facilities be borne by downstream beneficiaries.

Historically, the 10(f) costs have been equitable apportioned among the headwater project and downstream projects as follows. The first step is allocation [2] of the project costs among the various authorized functions of the project. When an upstream Federal project is completed, the constructing agency will first assign the costs of facilities that will serve only one function (specific facilities) to that

[2] In this discussion, "allocation" refers to assigning costs to different project functions, and "apportionment" refers to dividing costs to be borne by power among upstream and downstream beneficiaries.

function and then will usually allocate costs of the joint use facilities that can be accurately identified to each authorized project function. The cost allocation will include actual construction costs and anticipated costs of operation, maintenance, and replacements.

Some costs will be allocated to "joint use" power functions;[3] others, such as the cost of facilities related to irrigation, will not. This allocation generally establishes the portion of joint use investment costs (interest, amortization, and replacements) and the percentage of joint use annual costs (operation and maintenance) that are used to derive the annual costs to be borne by power and are the basis for the headwater benefits charge. If the legislation authorizing the project specifies that certain non-power costs are to be borne by power revenues, these costs would also be apportioned under section 10(f). These costs will be referred to as "headwater benefits costs" for the remainder of this Notice of Proposed Rulemaking. During the life of the project, the allocation ratio of the headwater benefits costs to the total costs will ordinarily not change unless a new project function is authorized or the project operation is significantly modified.

The second step in assessing headwater benefits charges is apportioning the headwater costs among the headwater and downstream parties, as described below.

B. Methods of Apportioning Headwater Benefits Costs

(1) *Value Method*

The Commission has used a variety of methods to determine how to equitably apportion these headwater benefits costs. Until recently, the "Allatoona" or "value" method of apportioning the costs has been used most frequently.[4] Under this method, headwater benefits costs are apportioned according to the monetary *value* of the power benefits (energy and dependable capacity) at the site and at downstream projects.[5]

The value for the headwater project (V_f) is considered to be the total annual cost of producing that power since Federal power is sold at cost under the Flood Control Act of 1944, 16 U.S.C. 825s (1982) and other legislation. The value for the downstream project (V_n) is determined by first computing the gains in energy and dependable capacity realized at that project, which are the difference between the amounts of each that would be realized with and without the headwater project. The monetary value of these energy and capacity gains is expressed as the incremental cost of obtaining an equivalent amount of energy and capacity from the most likely alternative source, which is generally a steam electric generating plant.

The "value" method of apportioning headwater benefits costs has been upheld in court as a reasonable exercise of the Commission's discretion, although the courts make it clear that other acceptable ways may exist for the Commission to equitably apportion these costs.[6]

Since 1974, however, the effect of using the "value" method has changed. This is because the cost of alternative fuels has increased dramatically, with a concomitant increase in the value of the energy and capacity gains realized at downstream projects. At the same time, the value for the headwater projects (that is, the cost of producing the power) has remained relatively stable.[7] Thus, downstream projects owners have been apportioned a larger and larger percentage of the headwater benefits costs even though the amount of power gains they receive has remained much the same.

(2) *Other Approaches*

Headwater benefits charges have been assessed based on a variety of other apportionment methods in different river basins. The critical period procedure, set forth in § 11.27(a) of the Commission's regulations, can be used where the downstream project is assured of scheduled water releases. Under that method, the headwater benefits charges are apportioned according to the value of the power benefits realized from storage during the "critical period."[8] This method was designed to take account of capacity and energy gains. However, the critical period method is applicable in only a few river basins.

There are several other apportionment formulas which could be used under the general language of the existing rule.[9] In addition, under §§ 11.25 and 13.1, non-Federal owners of headwater improvements (licensees and permittees) may arrive at settlements with downstream project owners, subject to Commission approval, in lieu of a Commission investigation and proceeding.

(3) *The Energy Gains Approach*

In *Virginia Electric and Power Co. and Dan River, Inc.*[10] (hereinafter referred to as the *Roanoke* case because it concerned the Roanoke River), the Commission decided that the headwater benefits costs should be apportioned based on the comparative energy produced at the headwater project and the energy gain at the downstream project rather than on the monetary value of those energy and dependable capacity amounts. Payments were based on actual energy gains for a portion of the study period and on average annual energy gains over the remainder of the period and for the future. The order provided that these payments (which

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[3] The term "joint use" facilities or functions means those facilities or functions of the headwater project that serve more than one purpose. These are facilities which can benefit both the headwater project and the downstream project. This term, therefore, refers primarily to the dam and reservoir at the headwater project and excludes facilities that benefit only the upstream project, such as its own powerhouse. There are, however, a few unique situations where, for example, a statutory provision directs non-power facilities, such as irrigation facilities, to be included with the power-related facilities and to be borne by power revenues. The 10(f) costs which must be equitably apportioned include *only* joint use costs that are assigned to or are to be borne by the power function of the headwater project.

[4] The method was first used to apportion headwater benefits costs from the Federal Allatoona project in Alabama Power Co., Determination of Proportion of Annual Charges Due for Headwater Benefits for Years 1950 through 1952, 13 F.P.C. 1317 (1954).

[5] The Allatoona formula reads as follows:

$$P_n = C_p \times \frac{V_n}{V_f + V_d}$$

in which P_n = annual payment to be made for headwater benefits received at a downstream non-federal plant (or group of plants),

C_p = total annual 10(f) costs of the dam and reservoir to be borne by power at site and downstream,

V_n = net annual monetary value of benefits received at a downstream non-Federal plant (or plants),

V_f = annual monetary value of the Federal headwater improvements to at-site power production, and

V_d = net annual monetary value of benefits received at all downstream plants.

[6] *Alabama Power Co.* v. *FPC*, 450 F.2d 716 (D.C. Cir. 1971); *South Carolina Electric and Gas Co.* v. *FPC*, 338 F.2d 898 (4th Cir. 1964).

[7] In other words, the V_n and V_d figures in the Allatoona formula have increased due to the increase in alternative fuel costs while the C_p and V_f figures have remained fairly constant.

[8] "Critical period" means the time during which all water storage at a reservoir would be released for power production, assuming recurrence of the most adverse stream flow conditions of record for the area (§ 11.25(b)(1)).

[9] Other apportionment formulas which could be used include using the value method with a "ceiling," the value method excluding consideration of capacity gains, the energy method (100% at site), and the energy method (50% at site). Under the energy method (100% at site), the joint power costs are apportioned using the ratio of energy gains at each downstream plant to total headwater project (at site) energy production plus energy gains at all downstream plants. Under the energy method (50% at site), the joint power costs are apportioned using the ratio of energy gains at each downstream plant to the total of 50% of the headwater project energy production plus energy gains at all downstream plants.

[10] Order Assessing Payments for Headwater Benefits, 22 FERC ¶61,351 (March 31, 1983) (Docket No. HB08-74-2-000).

were expressed as a percentage of the headwater costs) be continued until a new investigation is performed because of economic changes, changes in operations, or changes in the development of the river basin.

The *Roanoke* "energy" methodology is designed to achieve several goals: (1) an equitable apportionment of the headwater benefits costs that is not sensitive to unnecessarily volatile and uncontrollable economic factors, such as the price of oil and the rate of inflation; (2) expeditious assessment of payments for headwater benefits by making the methodology easier to apply; (3) providing predictability for developers and potential developers; and (4) reducing the costs of investigations. It also obviates the need to determine dependable capacity gains and to establish a monetary value for these gains, which has led to considerable controversy in Commission headwater benefits proceedings.

C. Need for a Generic Method to Determine Equitable Apportionment

There are 41 river basins with Federal reservoirs upstream from non-Federal hydropower projects. Payments in these river basins currently are as follows. In 19 basins, no assessments have been made because detailed investigations revealed that no payments were due or because preliminary studies indicated that further investigations were not warranted.[11] In the Columbia, Willamette, and Missouri basins, the critical period method is currently being used, although payments are presently interim.

Interim payments are also being made based on various methods in the Ouachita, Savannah, Alabama, Chattahoochee, and White (Arkansas) basins.[12] The Allatoona "value" method is the basis for assessment in the Alabama, Chattahoochee, and Mississippi basins and is the basis for settlements in the Colorado and White basins. In the Roanoke, Kern, and Clarion basins, the *Roanoke* energy method is the basis for the present assessment.[13] Eleven of the 41 river basins having Federal reservoirs also involve Federally licensed headwater projects. Nineteen basins contain only Federally licensed headwater improvements.

This proposed rule would apply the energy gains formula (which is described in more detail below) on a generic basis for determining the headwater benefits charges arising from all Federal headwater projects. It would also set forth procedures for the Commission to assess charges for benefits from headwater projects owned by Federal licensees or permittees where the licensee or permittee so requests. The application of one methodology for determining headwater benefits charges from Federal headwater projects would resolve the problem of varying headwater benefits charges in different basins based on different methodologies. One generic methodology is also expected to eliminate many hearings and lawsuits, thereby saving the Commission and affected parties time and expense. Moreover, numerous outstanding headwater benefits proceedings could be resolved more quickly and fairly under a generic rule.

III. The Proposed Rule

A. General Description

Under the proposed rule, the headwater benefits costs would be apportioned based on the energy gains for the upstream (headwater) and downstream plants unless (1) a settlement is reached by the parties and approved by the Commission, or (2) the owner of the downstream project demonstrates that the formula would result in charges which exceed the value of the energy gains. These exceptions are discussed in section III B below.

The headwater benefits costs would be apportioned among the headwater and downstream projects on the basis of the relative proportions of the amount of energy produced at the headwater project attributable to the joint use facilities versus the energy gains at downstream projects. The formula is:

$$P_n = C_p \times \frac{E_n}{E_j + E_d}$$

In which:

P_n = annual payment to be made for headwater benefits received during a specific year at a downtown plant,

C_p = annual 10(f) cost of headwater improvement to be borne by power both at the headwater project site and downstream,

E_n = annual energy gains received at a downstream plant, or group of plants if owned by one entity,

E_d = annual energy gains received at all downstream plants,[14]

E_j = portion of the annual energy at the headwater improvement attributable to the joint use power facilities.

$$E_j = E_t \times \frac{C_j}{C}$$

where:

E_t = total annual generation at the headwater project,

C_j = total investment costs assigned to the headwater joint use power facilities, and

C = total investment costs assigned to the headwater power facilities, including both joint use and specific facilities.

The energy method would be used to arrive at a percentage of the headwater benefits costs to be paid by each party rather than a fixed dollar amount. Thus, changes in the dollar amount of headwater benefits costs would be reflected in annual billings and would not require additional action.

Energy gains which total less than zero for an annual period would not be carried over to the following year. Such annual losses, however, would be offset by positive gains from the same reservoir at other downstream plants of the same ownership.

The "first-in-time" principle would also continue to be used. Under this principle, for example, where there are two upstream reservoirs, either of which alone could produce an energy gain of 20 percent at a downstream plant but which together produce an energy gain at that plant of only 26 percent (not 40 percent), the first reservoir to produce benefits is treated as producing a 20 percent benefit while the second is treated as producing a 6 percent benefit.

Finally, there are cases of headwater projects with no power but which cause direct benefits to downstream projects. For instance, a flood control project may benefit downstream power projects by preventing flooding which would interfere with their operation. Releases of water for irrigation may augment low flows to produce power gains. In these instances, the Commission will continue its practice of making an allocation to the power function for the headwater project based on the benefits related to the initial authorized purposes plus the energy benefits received by the downstream projects.

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[11] These basins are Clearwater, Deschutes, Gila, Guadalupe, Kansas, Klamath, Minnesota, Niobrara, Ogdene, Platte, Provo, Red Lake, Rio Grande, Rogue, Tennessee, Weber, Yadkin-Pee Dee, Des Moines, and Susquehanna.

[12] Interim payments are only temporary and can be revised retroactively by the Commission when it reaches a final determination of headwater benefits charges.

[13] Note that in the Mississippi and Clarion basins, where there are no power facilities at the headwater projects, an allocation of costs to the power function forms the basis for downstream payments.

[14] As under present practice, Federally owned downstream plants would be included in the E_d term of the apportionment formula although they would not actually be assessed a headwater benefits charge.

B. Application of Energy Gains Methodology

(1) *Time Periods Involved*

Generally, the energy method would be applied to all river basins and for all time periods, except where final headwater benefits payments have already been set by a Commission order or where the Commission has approved a settlement without reserving the possibility of later adjustment. In several river basins no headwater benefits assessment has yet been made, and downstream projects licenses generally state that the licensee is liable for any assessment the Commission makes. In eight other river basins, the Commission has assessed *final* payments for earlier years but has established only *interim* charges in recent years as a result of settlements or Commission adjudications. For these two types of situations, the proposed rule would apply before 1973 as well as afterwards except in years for which final payments have been made.

(2) *Limitation on Headwater Benefits Charges*

It was after 1973 that alternative fuel costs rose dramatically and application of the Allatoona value method led to downstream projects being apportioned a growing percentage of the 10(f) costs. Applying the energy method to pre-1973 years could, in some cases, lead to headwater benefits charges which are larger than the value of the gains for a project for an individual year. In order to avoid this inequitable result, the Commission proposes to allow the headwater benefits charge to be "capped" if a project owner demonstrates that the total payments under the energy method for the period being assessed would exceed the total value of the benefits for the period being assessed. This cap would be set at the value of the benefits for that period (see proposed § 11.28(e)). There may be other situations in which applicaton of the energy method could lead to headwater benefits assessments which are greater than the value of the energy benefit received by a particular project.

(3) *Reallocation of Headwater Projects Without Power Where Number of Beneficiaries Changes*

When a new project is built downstream or one is retired, the Commission proposed that the allocation to the power function at the Federal headwater project be changed accordingly, since the original allocation to the power function for a headwater project without power constitutes the costs to be borne by the downstream owners. The amount apportioned to individual owners thus depends on the relative benefits to all downstream plants. Thus, construction of a new downstream plant, for instance, would result in a reduction of the payments to be made by the other downstream owners.

(4) *Settlements*

In some river basins there are settlements concerning the apportionment of headwater costs. Where the Commission has approved a settlement providing for definite and final payments for particular years, this proposed ruled would not disturb that agreement. However, some Commission orders approving settlements state that certain payments are to continue into the future until changes in conditions warrant a reappraisal.[15] Many of these payments have not reflected an equitable apportionment of 10(f) costs in recent years because of significant increases in these costs. The Commission believes that this change in headwater benefits costs with the passage of time constitutes a changed condition warranting reappraisal of these settlements and proposes to apply this proposal rule to those cases.

(5) *Relation to Other Annual Charges*

Under section 10(e) of the FPA, when a licensee uses a dam or other structure owned by the Federal government, the Commission is to fix a reasonable annual charge for that use. Some downstream power projects may be subject both to these 10(e) annual charges and 10(f) headwater benefits charges. This occurs when the downstream project uses a Government dam to develop head and also receives benefits from another upstream Federal dam and reservoir. In this situation, the Commission proposes to decrease the 10(e) charges by the amount of the 10(f) charges for any year for which 10(f) charges are assessed and paid.[16] Although the Commission is legally entitled to assess both 10(e) and 10(f) charges on a project under these circumstances, as a matter of policy the Commission proposes not to burden these projects with the full amount of both charges. However, the Commission requests comments on this issue, particularly with respect to the actual financial burden that might otherwise be imposed. The Commission may consider adopting other approaches in the final rule.

C. Procedures

The proposed rule would make several changes in the procedural aspects of headwater benefits determinations. First, it would provide that the Commission may perform a preliminary study to determine whether a detailed river basin investigation is justified. If the commission decides to perform such a detailed investigation, it will publish general notice and will notify the parties. A party will have 30 days to raise any affirmative defenses such as objections to the Commission's authority to asses headwater benefits charges. This is designed to prevent a possible waste of Commission resources in conducting an investigation that is later challenged solely on jurisdictional, rather than factual, grounds.

In some situations, the preliminary study may indicate that a more detailed investigation is justified, yet the amount of the headwater benefit charges likely to be involved may not justify as extensive or sophisticated a study as in other river basins, where higher charges are likely. The draft proposed rule provides that the parties may agree to a relatively less extensive investigation by the Commission. (The information obtained through this investigation would be used in applying the energy formula.) However, the Commission may perform the more extensive investigation if it believes it is necessary even where the parties have agreed to a more abbreviated investigation.

IV. Section-by-Section Description of Proposal

A. Section 11.25 (General Rule and Definitions)

Section 11.25(a) of the existing regulations incorporates the requirement of section 10(f) of the FPA that power projects which directly benefit from headwater improvements of the United States or its licensees or permittees must pay an equitable portion of the 10(f) costs of the headwater improvement. The proposed rule would make only minor word changes to the body of § 11.25(a) but would delete current footnote 1 as unnecessary (see discussion of § 11.31 below).

Section 11.25(b) of the existing rule sets forth definitions. The proposed rule would retain the definition of "party" as either the owner of a non-Federal downstream project which receives a

[15] *E.g.*, South Carolina Electric & Gas Co., *Savannah River, Headwater Benefits Determination*, Docket No. E-6468 (issued August 19, 1958); Arkansas Power & Light Co., *Determination of Charges for Headwater Benefits*, Docket No. E-6709 (issued December 20, 1963).

[16] If headwater benefits charges are assessed and paid at times different than annual charges (even though the year at issue is the same), the 10(e) annual charges billing would be adjusted as necessary to reflect any credit that is due.

direct benefit from an upstream reservoir or other improvement of the United States or its licensee or permittee, or the owner of such a headwater improvement, or a Federal power marketing agency with respect to Federal headwater improvements. Other definitions in the existing rule would be deleted as they would no longer be relevant.

The proposed rule would add several new definitions. "Energy gains" would mean the difference between the energy a downstream project would produce with the headwater project and the energy it would produce without that project, using a "first-in-time" priority (as discussed above under Section III A "General Description") to attribute gains to each headwater project. "Generation" would mean gross generation at the hydropower project measured in kilowatt-hours. "Headwater benefits costs" would be defined as the annual costs of interest, maintenance, and depreciation of the joint use facilities at a headwater project to be borne by power revenues. "Joint use facilities" would be defined as facilities at a headwater project (usually the dam and reservoir) which provide benefits to more than one function and may provide benefits both at the headwater project site and at downstream projects. "Specific facilities" are those providing benefits only to one function, generally at the headwater project site. "10(f) costs" would be defined as the annual costs of interest, maintenance, and depreciation of the joint use facilities.

B. Section 11.26 (Information To Be Submitted)

Section 11.26 would provide that the data necessary for an investigation of headwater benefits shall be supplied on a case-by-case basis, as the Commission requests. This information would also be provided to all other affected parties. The proposed rule contains a list of the information that will be required if the Commission performs an investigation. The list of information the owner of the headwater project would be required to submit includes identification of the project and the stream, a description of the power plant and the reservoir, area capacity and rule curves, information on the contents of the reservoir, the annual gross generation at the hydroelectric plant, the investment costs, and the annual costs (including information on allocation of these costs among the project functions). The list of information the owner of the downstream plant would be required to submit includes identification of the project and the stream, a description of the power plant, and information of the generation at the plant. The rule also notes that these lists of information are not exhaustive and that the Commission may require other information.

These proposed data requirements differ from the requirements in existing § 11.26 in two ways. First, and most importantly, the data is to be supplied as requested on a case-by-case basis rather than being required for every project for every year as under the existing rule. There is no need to require yearly submission of information for all projects since the Commission does not study every project or every year. The information is readily available to the project owners and could easily be gathered in response to a request from the Commission. Second, the existing rule contains a more extensive list of required information, some of which was needed for the critical period method. These items would be deleted in the proposed rule because the critical period method would be replaced by the energy gains method.

C. Section 11.27 (Preliminary Studies and Detailed Investigations)

Section 11.27(a) would provide for the Commission to perform a preliminary river basin study. The purpose of this preliminary study would be to determine whether a detailed investigation is warranted. This is designed to promote efficient use of the Commission's resources and to make the regulatory burden on affected parties commensurate with the nature of the river basin and the projects involved.

Under § 11.27(b), where the preliminary study indicates that a detailed investigation is warranted, the Commission will notify the parties and issue a public notice. In order to avoid a possible waste of resources the Commission intends that parties wishing to raise affirmative defenses such as jurisdictional issues do so within 30 days after publication of the notice.

D. Section 11.28 (Payments for Benefits Provided by Headwater Improvements Owned by the Federal Government)

Section 11.28 of the proposed rule sets forth the energy method of apportioning headwater benefits costs of Federal headwater projects. Subsection (a) establishes the applicability of the energy gains formula. Under subsection (a), unless the project is already subject to a final Commission order assessing headwater benefits payments which is not subject to change, or unless a downstream project owner demonstrates that the formula set forth in the rule would result in payments greater than the value of the energy gains to be received, charges would be fixed for downstream projects which exceed 2,000 horsepower [17] based on the general rule and formula in subsections (b)–(d). These provisions would replace existing § 11.27, which provides for payments to be determined differently in different circumstances. Thus, this section is central for achieving greater uniformity among river basins, one of the principal objectives of this rulemaking.

Subsection (b) sets forth the general principle for apportioning headwater benefits costs. The headwater benefits costs would be apportioned among the headwater project and the downstream projects on the basis of the relative proportions of the amount of energy produced at the headwater project attributable to the joint use facilities to be borne by power revenues versus the energy gains at downstream projects.

Subsection (c) explains how the amount of energy at the headwater project attributed to the joint use facilities is calculated.

Subsection (d) sets forth the mathematical formula for the energy method.

Under subsection (e), where the owner of a downstream project demonstrates that use of the formula would result in payments which exceed the value of the project's energy gains, the assessment will be limited to the dollar amount of that value.

Under proposed subsection (f), where a downstream project is subject to both an annual charge for use of a Government dam or other structure under section 10(e) as well as a headwater benefits charge under section 10(f) of the FPA, the Commission will decrease the 10(e) charge by the amount of the 10(f) charge for any year for which both charges are assessed. It is possible that a credit towards future 10(e) charges will be the appropriate adjustment mechanism depending on when the 10(f) charges are actually assessed.

Under proposed § 11.28(g), the cost of the investigation and the Commission's determination would be borne either by the downstream beneficiaries or where a Federal licensee or permittee owning a headwater project is involved by that licensee or permittee and the downstream beneficiaries. This is consistent with the Commission's decision in *Public Service Co. of Colorado*, Opinion Reversing Initial

[17] The rule carries forward the current exclusion found in 18 CFR 11.27 for hydropower projects of 2,000 horsepower or less. *See* section 10(f) of the FPA.

Decision, —— FERC ¶ (————, 1983) (Docket No. HB24–63–3–000).

The proposed rule also provides in subsection (h) that where determinations have been made for several years and where conditions appear to have stabilized, the Commission may establish future payments based on average annual energy amounts. This is similar to the provisions in existing § 11.30. Under subsection (i), where final future payments are not established, the Commission may assess interim payments until it reaches a final determination on the appropriate amount to assess.

Subsection (j) would govern the beginning date for which payments will be assessed. It also would provide that for river basins in which payments are current and annual billing procedures established, bills based on the established percentage of headwater benefits costs would be rendered annually until a revision is warranted because of a change in the operration of the project or an increase or decrease in the amount of hydro-electric development in the river basin.

Subsection (k) would provide that the Commission may initiate a new investigation on its own motion or at a party's request.

E. Section 11.29 (Where Benefits Are Provided by a Headwater Project Owned by a Federal Licensee or Permittee)

Proposed § 11.29 would govern the situation where a licensee or permittee owning a headwater improvement believes that it should be receiving payments from downstream projects. Under the proposed rule, that licensee has the responsibility to initiate action; the Commission will not begin an investigation unless requested. As under § 13.1 of the existing regulations, the proposed rule would provide that the owner of the headwater project and the downstream owners may reach a settlement agreement, subject to the Commission's approval.

Under proposed § 11.29(b), the owner of the headwater project may request the Commission to perform a study, and the Commission may perform a preliminary study. If the Commission determines that a detailed investigation is justified, it will perform such an investigation.

Under § 11.29(c), if as a result of the investigation the Commission concludes that the licensee or permittee should be paid for headwater benefits, the Commission will assess a headwater benefits charge against the owners of the downstream beneficiary projects. The Commission will use the formula set forth in § 11.28 to determine this charge.

F. Sections 11.30 and 11.31 (Effective Date and Adjustment of Annual Charges)

Proposed §§ 11.30 and 11.31 are merely redesignations of existing §§ 11.28 and 11.29. These sections do not apply to 10(f) charges but do relate to other charges covered by 18 CFR Part 11.

G. Section 11.32 (Procedures)

Section 11.31 of the existing regulations (redesignated as § 11.32 in the proposed rule) governs the time for paying annual charges and headwater benefits charges, billing procedures, protest and hearing procedures, accounting for payments made pending protests and requests for hearing, and penalties. This section would not be changed in substance except for the addition of a new subsection (f) concerning interest payments. Subsection (f) would provide that where a party protests a headwater benefits charge and requests a hearing or reconsideration, the penalty for failure to pay may be waived but interest on the unpaid balance of the amount finally determined will be assessed beginning 60 days after the initial bill. Interest would be computed in accordance with the Commission's regulation governing other refunds under the FPA (18 CFR 35.19a).

IV. Regulatory Flexibility Act Certification

Whenever the Commission is required by section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, to publish a notice of proposed rulemaking, it is also required by section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, to prepare an initial regulatory flexibility analysis unless the Commission certifies pursuant to section to section 605(b) of the RFA that the proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.

Generally, many hydroelectric developers are not small entities as defined under the RFA.[18] In addition, the proposed rule would exempt projects under 2,000 horsepower, thereby further limiting the number of entities subject to the rule. Third, out of a total of 796 hydroelectric project licensees (of all sizes), only about 50 licensees are presently identified as potential beneficiaries of headwater improvements, and only 7 non-licensees are beneficiaries. Thus, this rule is not expected to affect a substantial number of small entities.

Moreover, the economic impact of this rule on those project owners who are affected is not likely to be significant in terms of RFA considerations. The charges resulting from the application of this rule are not expected to be significantly different because any difference is most likely to be a decrease rather than an increase. This is because the energy method proposed here is likely to result in downstream beneficiaries being apportioned a smaller share of the headwater costs than under the prevailing Allatoona "value" method. Furthermore, the proposed rule would alleviate some of the uncertainty which now faces downstream beneficiaries as to what approach the Commission will take in assessing headwater benefits. Some of the resources now spent by these entities on individual hearings should also be saved.

For these reasons, the Commission certifies pursuant to section 605(b) of the RFA that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act Statement

The information collection provisions proposed in this notice are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. V 1981) and OMB's regulations, 5 CFR 1320.13 (1983). Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Attention: Jan Macpherson (202) 357–8033). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Office for the Federal Energy Regulatory Commission).

VI. Comment Procedures

The Commission invites interested persons to submit written comments, data, views, and other information concerning the matter set out in this notice. The Commission specifically invites all persons concerned with the preparation of information for investigations under this proposed rule

[18] 5 U.S.C. 601(d) citing to section 3 of the Small Business Act, 15 U.S.C. 632 (Supp. IV 1980). Section 3 of the Small Business Act defines a "small business concern" as a business which is independently owned and operated and which is not dominant in its field of operation. *See also* SBA's Small Business Size Standards, 13 CFR Part 121 (1983).

to comment on the number of work hours and cost incurred in preparing and submitting this information. An original and 14 copies of such comments should be filed with the Commission by 4:30 p.m. on or before March 9, 1984. Comments must be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol, NE., Washington, D.C. 20426, and should refer to Docket No. RM83–57–000.

All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, Room 100, 825 North Capitol Street, NE., Washington, D.C. 20426, during regulatory business hours.

List of Subjects in 18 CFR Parts 11 and 13

Electric power.

In consideration of the foregoing, the Commission proposes to amend Parts 11 and 13, Chapter I, Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

18 CFR Part 11 is amended as follows:

1. The Table of Contents is amended by revising the entries for §§ 11.27–11.31 and adding a new entry for § 11.32 to read as follows:

PART 11—ANNUAL CHARGES UNDER PART I OF THE FEDERAL POWER ACT

* * * * *

Sec.

2. The authority citation for Part 11 is revised to read as follows:

Authority: Federal Power Act, 16 U.S.C. 803 (1976 & Supp. V 1981), unless otherwise noted.

3. In Part 11, §§ 11.25 through 11.31 are revised and new § 11.32 is added to read as follows:

§ 11.25 Headwater benefits.

(a) *Headwater benefits charges.* As determined under §§ 11.28 and 11.29, the Commission will assess charges against the owners of non-Federal power projects larger than 2,000 horsepower which receive direct benefits from storage reservoirs or other headwater improvements of the United States for an equitable part of the annual costs of interest, maintenance, and depreciation on such headwater improvement.

(b) *Definitions.* When the following terms are used in §§ 11.25 through 11.31, the following definitions shall apply:

(1) "Energy gains" means the difference between the energy which would be produced at a downstream project with the headwater project and that which would be produced without the headwater project.

(2) "Generation" means gross generation at the hydropower project, including generation needed for station use or the equivalent for direct drive units, measured in kilowatt-hours. It does not include energy derived from pumping in a pumped storage project.

(3) "Headwater benefits costs" means the annual costs of interest, maintenance, and depreciation of the joint use facilities to be borne by power revenues.

(4) "Headwater costs" means the total annual costs of a headwater improvement project owned by the Federal government or its licensee or permittee.

(5) "Joint use facility" means the portion of a headwater improvement that serves more than one purpose and may provide benefits both at the headwater project site and at one or more downstream projects.

(6) "Party" means the owner of a non-Federal downstream power project which is directly benefited by an upstream reservoir of a licensee, a permittee, or the United States; the owner of such upstream reservoir; or, when the United States is an upstream reservoir owner, it may mean an operating and/or marketing agency of the United States.

(7) "Specific facility" means a facility associated with a headwater improvement which serves a single purpose, such as a headwater project powerhouse that provides power benefits only at the headwater facility.

(8) "10(f) costs" means the annual costs of interest, maintenance, and depreciation of the joint use facilities, including facilities used for all purposes, such as flood control and irrigation.

§ 11.26 Information to be submitted concerning headwater benefits.

The following data shall be supplied on a project-specific basis as requested by the Commission staff in conjunction with a study or investigation of headwater benefits. Copies of information submitted to the Commission under this section shall also be served on all other affected parties. Data that will be required if a study or investigation is performed include the following:

(a) *Data required from owner of the headwater project.* Data to be supplied by the licensee, permittee, or Federal agency for each storage reservoir upstream from a non-Federal power plan which exceeds 2,000 horsepower.

(1) *Project identification:* Name and location of the storage project, including the name of the stream on which it is located.

(2) *Power plant description:* Total nameplate rating of installed generating capacity of the project expressed in kilowatts.

(3) *Reservoir description:* Total storage capacity of the reservoir and a breakdown to show the capacity allocated to each of its functions, such as dead storage, power storage, irrigation storage, and flood control storage. Identify by reservoir elevation and portion of the reservoir assigned to each of its respective storage functions.

(4) *Capacity curves:* An elevation-capacity curve or a tabulation of reservoir pool elevations and corresponding reservoir storage capacities.

(5) *Rule curves:* Copy of rule curves, coordination contracts, agreements, or other relevant data governing the release of water from the reservoir, including a separate statement of their effective dates.

(6) *Reservoir contents:* A curve or tabulation showing actual reservoir pool evaluations throughout the immediately preceding fiscal period.

(7) *Generation data:* The total annual gross generation of the hydroelectric plant in kilowatt-hours.

(8) *Investment costs:* (i) The total investment costs of the headwater improvement project at the close of the fiscal period or at a specified date during the fiscal period.

(ii) The total investment costs of the specific facilities at the project at the close of the fiscal period or at a specified date during the fiscal period, showing the total costs of the specific facilities of each project purpose separately for the same date.

(iii) The investment costs of joint use facilities on the date specified in paragraph (a)(8)(i) above, identifying the items included as joint use facilities.

(iv) The allocation of such investment costs of joint use facilities to the power function and to each of the other project purposes, such as flood control, navigation, irrigation, and recreation.

(v) The cost of land included in the investment cost of joint use facilities allocated to the power function.

(9) *Annual costs:* Annual costs of interest, maintenance, and depreciation on the joint use facilities allocated to the power function (each item shown separately), identifying the annual interest rate and the method used to compute the depreciation charge, or the interest rate and period used to compute amortization if used in lieu of depreciation, including any differing interest rates used for major rehabilitation.

(b) *Data required from owners of downstream projects:* Data to be supplied by the owner of each hydropower project which exceeds 2,000 horsepower downstream from a storage reservoir owned by the United States or its licensee or permittee. Those items where data for the current fiscal period are the same as data furnished for a prior fiscal period should be noted along with identification of the fiscal year for which the data were reported.

(1) *Project identification:* Name and location of the hydropower plant, including the name of the stream on which located.

(2) *Power plant description:* Total nameplate rating of the installed generating capacity of the plant expresssed in kilowatts.

(3) *Generation data:* Record of daily gross generation and unit outages which may have occurred.

(c) *Additional data:* Owners of headwater projects or downstream projects shall furnish any additional data requested by the Commission.

§ 11.27 Preliminary studies and detailed investigations.

(a) *Preliminary studies.* The Commission may conduct preliminary studies to determine whether the anticipated levels of payments or other factors warrant a detailed investigation under § 11.27(b).

(b) *Detailed investigations.* If the Commission determines that a detailed investigation is warranted, a public notice will be issued and the affected parties will be notified that a detailed investigation is being initiated. Any party wishing to raise affirmative defenses shall so notify the Commission within 30 days after the public notice is issued. The parties may reach an agreement concerning the detail and amount of data to be collected necessary to perform an apportionment under the formula in § 11.28. However, the Commission is not bound by any such agreement among the parties.

§ 11.28 Payments for benefits provided by headwater improvements owned by the Federal government.

(a) *Applicability.* Unless otherwise determined in an existing final Commission order which is not subject to change or unless the owner of a downstream project which receives benefits from a headwater project owned by the Federal government demonstrates that the formula set forth in this section would result in charges which exceed the value of the downstream project's energy gains, the Commission will assess headwater benefits charges for projects which are larger than 2,000 horsepower according to the provisions of this section.

(b) *General principle.* The headwater benefits costs are to be apportioned among the headwater project and the downstream projects on the basis of the relative proportion of the amount of energy produced at the headwater project considered attributable to the joint use power facilities and the amount of energy gains produced at the downstream projects.

(c) *Calculation of energy at headwater project site.* The ratio of (i) the amount of energy at the headwater project attributable to the joint use facilities to the total headwater project energy production shall be the same ratio of (ii) the allocated joint use power investment to (the total joint use and specific power investment. If, for example, the joint use power costs are 65 percent of the total power costs, including specific power costs, 65 percent of the headwater project generation would be used as the measure of headwater project benefits in apportioning headwater costs.

(d) *Formula.* Except where paragraph (e) of this section applies, the annual payments to be made for benefits received by each non-Federal downstream plant shall be determined by the following formula:

$$P_n = C_p \times \frac{E_n}{E_j + E_d}$$

In which:

P_n = annual payment to be made for headwater benefits received during a specific year at a downstream plant,

C_p = annual 10(f) cost of headwater improvement to be borne by power both at the headwater project site and downstream,

E_n = annual energy gains received at a downstream plant, or group of plants if owned by one entity,

E_d = annual energy gains received at all downstream plants,

E_j = portion of the annual energy at the headwater improvement attributable to the joint use power facilities.

$$E_j = E_t \times \frac{C_j}{C}$$

Where:

E_t = total annual generation at the headwater project site,

C_j = total investment costs assigned to the headwater project joint use power facilities, and

C = total investment costs assigned to the headwater project power facilities, including both joint use and specific facilities.

(e) *Limitation on headwater benefits charges.* Where the owner of a downstream project satisfactorily demonstrates that application of the formula in paragraph (d) would result in payments which exceed the value of the energy gains for the project for the period of study, the assessment will be limited to the value of the energy gains.

(f) *Relation to other annual charges.* When a project is subject to annual charges for use of Government dams or structures under section 10(e) of the FPA as well as under §§ 11.25—11.29 of this Part, the Commission will decrease the section 10(e) charges by the amount of the charge calculated under paragraph (d) of this section for those years for which both charges are assessed.

(g) *Determination costs.* The owners of downstream projects which benefit from a headwater improvement owned by the United States shall pay to the United States the cost of making the investigation, study and determination as fixed by the Commission. Where a Federal licensee or permittee owning a headwater project has requested that the Commission assess headwater benefits charges against downstream beneficiaries under § 11.29 of this Part, that licensee or permittee and the downstream beneficiaries will share the costs of making the investigation, study and determination in proportion to the benefits received by their projects.

(h) *Future payments.* In river basins in which determination of payments for several years have been made and where construction and operating conditions appear to have stabilized, the Commission may establish future annual payments based upon average annual energy amounts.

(i) *Interim payments.* In river basins in which a determination of payments has been made but where conditions are such that final future annual payments are not established, interim payments based on past determinations will be

assessed annually until the Commission makes a final determination.

(j) *Billings.* In situations where the headwater project is constructed after the downstream plant, the beginning date for which payments will be assessed will be the first full month after any energy losses at the downstream plant due to filling of the headwater reservoir have been offset by subsequent energy gains. When the headwater project is constructed prior to the downstream plant, payments will be assessed beginning with the first full month of benefits realized by the downstream plant. After payments for all past benefits are current and annual payments have been established, bills will be rendered annually until a revision is warranted by a change in the operation of the projects or in the development of the river basin or other changes.

(k) *Initiation of new study or investigation.* Upon a request by a party or on its own motion, the Commission may initiate a new study or investigation of a river basin to determine whether the headwater benefits charges should be changed.

§ 11.29 Where benefits are provided by headwater improvements owned by a Federal licensee or permittee.

(a) *Settlements.* Licensees and permittees with headwater improvements providing power benefits to downstream non-Federal power developers may file with the Commission ageements negotiated with these developers specifying the amount of payments for headwater benefits. The Commission will review these agreements and will approve them if they are fair and reasonable and in the public interest.

(b) *Request for Commission investigation.* If such a licensee or permittee files a request for an investigation by the Commission, the Commission will initiate a preliminary study under § 11.27(a). If the Commission concludes that a detailed investigation is appropriate, it will perform such an investigation under § 11.27(b).

(c) If the Commission concludes that the licensee or permittee is owned payments for headwater benefits, the Commission will calculate these payments according to the provisions of § 11.28.

§ 11.30 Effective date.

All annual charges except those imposed under section 10(f) shall begin on the effective date of the license unless some other date is fixed in the license.

§ 11.31 Adjustment of annual charges.

All annual charges except those imposed under section 10(f) shall continue in effect as fixed unless changed as authorized by law.

§ 11.32 Procedures.

(a) *Time for payment.* Annual charges shall be paid within 45 days of rendition of a bill by the Commission, except that annual headwater benefits charges shall be paid within 60 days of rendition of a bill.

(b) *Billing for headwater benefits.* Copies of bills rendered to downstream owners for annual charges for headwater benefits shall be served on all other parties in the area and shall specify the parties served. When a headwater benefits assessment is based on a detailed investigation under § 11.27(b), a copy of the Commission staff's technical report in support of the assessment will be enclosed with the order and bill.

(c) *Protest or request for hearing.* Any protest against an assessment for headwater benefits, or request for a hearing thereon, must be filed within 60 days from the date of the billing, and a copy thereof shall be served on all other parties to the docket. The Commission may order a hearing under Subpart E of 18 CFR Part 385. The burden of going forward with evidence at any hearing shall be on any party or parties requesting a hearing. At any hearing which is requested by the owner of a downstream plant in connection with annual headwater benefits charges, the burden of proof shall be on such owner to demonstrate that the amount billed or to be billed is in error or exceeds that value of the benefits received for power purposes.

(d) *Accounting for headwater benefit payments pending protests and requests for hearing.* All payments received for headwater benefits charges from billings rendered pursuant to this section will be retained by the Commission in a special account, and disbursements therefrom shall not be made until the expiration of the 90th day from the date of the billing. If a protest or request for hearing is filed by any party to the docket, no disbursements shall be made from payments received from parties in the area until directed by the Commission.

(e) *Penalties.* In case of failure on the part of any person to pay annual charges within the periods specified in paragraph (a) of this section, a penalty of 5 percent of the total amount so delinquent is assessed and added to the total charges which shall apply for the first month or part of month so delinquent with an additional penalty of 3 percent for each full month thereafter until the charges and penalties are satisfied in accordance with law; provided, however, that for good cause shown, the Commission may, by order, waive any penalty imposed by this subsection.

(f) *Interest.* If a party protests either an initial or subsequent charge for headwater benefits and requests a hearing or reconsideration, the penalty for failure to pay under paragraph (e) of this section may be waived, but interest on the unpaid balance of the amount finally determined shall be assessed commencing 60 days after rendition of the initial bill. Interest will be computed in accordance with § 35.19(a) of the Commission's regulations.

PART 13—[REMOVED]

4. 18 CFR Part 13 is removed.

[FR Doc. 84-161 Filed 1-6-84; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-246-76]

Taxation of DISC Income to Shareholders

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the taxation of DISC income to shareholders. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Tax Equity and Fiscal Responsibility Act of 1982. In addition, amendments would also be made under section 993, one relating to the treatment of accrued interest on a producer's loan as a qualified export asset and another defining the term "trade receivables." A further amendment would be made under section 994 allowing treatment of a prior DISC dividend as an additional payment of transfer price or repayment of a commission by the DISC. The regulations would provide the public with the guidance needed to comply with these Acts and would affect all corporations which have elected to be treated as a DISC and their shareholders.

DATES: Written comments and requests for a public hearing must be delivered or mailed by March 9, 1984. The regulations are proposed to apply for taxable years beginning after December

31, 1975, except that the regulations under the Tax Equity and Fiscal Responsibility Act apply for taxable years of DISCs beginning after December 31, 1982.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-246-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Jacob Feldman of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C., 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 995 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 1101 of the Tax Reform Act of 1976 (90 Stat. 1655) and a portion of section 204(a) of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 423), and are to be issued under the authority contained in sections 995(e)(7), (8) and 10, 995(g) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1655, 90 Stat. 1659; 68A Stat. 917, respectively). Amendments would also be made under section 993, one relating to the treatment of accrued interest on a producer's loan and another defining trade receivables. An amendment would also be made under section 994 allowing treatment of a prior DISC dividend as an additional payment of transfer price or repayment of a commission by the DISC. An amendment would also be made to the regulations under section 996 to conform to changes made by the Tax Equity and Fiscal Responsibility Act of 1982.

Discussion; General Explanation of Changes

The tax law provides for a system of tax deferral for certain income earned by corporations known as domestic international sales corporations or "DISCs" and their shareholders. Under this system the profits of a DISC are not taxed to the DISC but are taxed to the shareholders of the DISC when distributed to them. However, each year a DISC is deemed to have distributed income representing at least 50 percent of its profits. The income deemed distributed is subject to current taxation to the shareholder of the DISC. Prior to the effective date of Tax Reform Act of 1976, there were, in addition to the deemed distribution of 50 percent of the DISC's profits, deemed distributions for the gross interest derived from producer's loans and certain gains from sales or exchanges. The Tax Reform Act added four additional deemed distributions. Two of these deemed distributions relate to participation in any international boycott and payment of foreign bribes or kickbacks and are the subject of other regulations projects. In addition, this regulations project covers a provision of the Tax Equity and Fiscal Responsibility Act which increased deemed distributions under section 995(b)(1)(F)(i) to corporate shareholders of DISCs from 50 percent to 57½ percent.

Taxable Income Attributable to Military Property

New § 1.995-6 provides rules with respect to taxable income attributable to military property described in section 995(b)(3). Under section 995(b)(1)(D) a DISC is deemed to distribute 50 percent of its taxable income for the taxable year attributable to military property. A DISC's taxable income from military sales is its gross income from the sales of military property reduced by the deductions properly allocable to that income. Military property is defined as arms, ammunition, or implements of war designated in the munitions list published pursuant to section 38 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2778 which superseded 22 U.S.C. 1934) and the regulations thereunder (26 CFR 121.01). The deemed distribution of the DISC income from military sales is made prior to the deemed distribution of taxable income attributable to base period export gross receipts and the regular deemed distribution. In computing the taxable income attributable to base period export gross receipts, only half of the military sales are included in the ratio of the average export gross receipts for the base period to the export gross receipts for the taxable year.

Taxable Income Attributable to Base Period Export Gross Receipts

Section 995(b)(1)(E) provides for a deemed distribution with respect to taxable income attributable to base period export gross receipts (hereinafter referred to as nonincremental distribution) computed under rules contained in section 995(e). Section 1.995-7 of the proposed regulations provides rules for determining the amount of the deemed distribution. The general rule, stated in paragraph (b)(1), is that the nonincremental distribution is computed by multiplying the adjusted taxable income of a DISC for the current year by a fraction. The numerator of the fraction is the adjusted base period export gross receipts. The denominator of the fraction is the export gross receipts of the DISC for the current taxable year. Adjusted taxable income, as defined in paragraph (b)(2), is taxable income of the DISC in the current year reduced by the deemed distributions under section 995(b)(1) (A), (B), (C), and (D) (*i.e.*, gross interest derived from producer's loans, gain on the sale of certain property and 50 percent of the taxable income of the DISC for the taxable year attributable to military property).

The term "adjusted base period export gross receipts," defined in paragraph (b)(4), means 67 percent of the average of the export gross receipts of the DISC for taxable years during the base period.

Export gross receipts include those receipts which are received in the ordinary course of the export trade or business of the DISC. It is narrower than the term "qualified export receipts" (defined in section 993(a)) in that the term "export gross receipts" includes only income from the sale, exchange, lease or rental (including related subsidiary services) of export property for use outside the United States; engineering and architectural services for projects outside the United States; and managerial services for a DISC which relate to the sale, exchange, rental or other disposition of export property. The term "export gross receipts" does not include gross receipts from the sale of qualified export assets other than export property; dividends and deemed distributions from a related foreign export corporation; and interest on any obligation (such as Export-Import Bank obligations) which is a qualified export asset.

The base period for taxable years beginning in 1976, 1977, 1978, and 1979 is composed of the DISC's taxable years beginning in 1972, 1973, 1974, and 1975. For taxable years beginning in 1980 and later years, the base period becomes a 4-year moving base period which moves forward 1 year for each year beyond 1979. Thus, the base period years for any year after 1979 will be the taxable years beginning in the 4th, 5th, 6th, and 7th calendar years preceding such calendar year.

In general, the average export gross receipts for the base period is the sum of the export gross receipts for the 4 base period years divided by 4. If the taxpayer did not have a DISC in any year which would be included in the base period for the current year, the base period export gross receipts are computed by attributing a zero amount

of export gross receipts to that base period year. However, base period export gross receipts do not include gross receipts from property which would not qualify during the taxable year as export property by reason of section 993(c)(2). Therefore, since coal is treated as excluded property under section 993(c)(2)(C), gross receipts from the sale of coal during base period years are not to be included in computing base period export gross receipts. Such export gross receipts from the sale of excluded property would not be excluded from base period export gross receipts to the extent they are included in export gross receipts from the current year under the binding contract exception to excluded property. In addition, for taxable years of the DISC ending before November 15, 1982, base period export gross receipts do not include receipts attributable to property sold or leased to a WHTC or receipts which arose in the absence of a written supplier's agreement unless the receipts were treated as qualified export receipts by the taxpayer.

Paragraph (c)(1), (c)(2), and (c)(3) of § 1.995–7 provide rules to compute average base period export gross receipts which take into account the different lengths of base periods. Under paragraph (b)(3) a special rule is also used with respect to computing current export gross receipts when the current year is a short taxable year.

Paragraph (d) provides rules where more than one member of controlled group (as defined in section 993(a)(3)) qualifies as a DISC. In such cases, the adjusted base period export gross receipts and the current export gross receipts are aggregated to determine the fraction described in paragraph (b)(1). The adjusted taxable income of each member DISC is then multiplied by the fraction to determine its nonincremental distribution. A special rule is provided where member DISCs have different annual accounting periods including a provision enabling a DISC to change its annual accounting period without the approval of the Secretary.

Paragraph (e) provides rules for the separation of a DISC and the underlying trade or business which gives rise to the export gross receipts of the DISC. The effect of this provision is to provide a double attribution since the base period export gross receipts follow the trade or business and also remain with the DISC. Under paragraph (e)(3) a separation is deemed to occur if there is a lease of substantially all of the assets of a trade or business, or the licensing of a patent, trademark or copyright essential to the conduct of the trade or business. The disqualification of a DISC is treated under paragraph (e)(3) as a separation and the export gross receipts produced prior to disqualification are attributed to the separated trade or business. Therefore, a re-qualified DISC is treated as having additional gross receipts attributable to the separated trade or business.

Paragraph (f) provides rules with respect to DISC benefits attributed through 5 percent shareholders.

Paragraph (g) of § 1.995–7 provides rules with respect to the small DISC exception to the incremental rules. DISCs with adjusted taxable income of $100,000 or less are exempted from the incremental rules. The exemption is phased out on a 2-for-1 basis so that DISCs with taxable income of $150,000 or more receive no exemption. In computing adjusted taxable income for purposes of the small DISC exception to the incremental rules, if more than one member of a controlled group qualifies as a DISC, the small DISC exemption is computed by aggregating the adjusted taxable income of each DISC which is a member of that group.

Paragraph (h) relates to situations where the DISC's export gross receipts are derived from one or more trades or businesses and the taxpayer wants to sell a part of or a complete trade or business along with its related DISC assets in order to avoid double attribution under the separation rules of section 995(e)(9). Paragraph (h) liberalizes the reorganization rules to permit the transfer of the related DISC assets in a non-taxable transaction.

Amendments Under Sections 993, 994 and 996

Paragraph (f) of § 1.993–2 would be amended to treat accrued interest on a producer's loan as a qualified export asset if the interest is paid within 60 days after the close of the taxable year of accrual. This amendment is necessitated by the present uncertainty as to the treatment of accrued interest on a producer's loan. Although accrued interest on a producer's loan is clearly a qualified export receipt under section 993(a)(1)(F), the statute and legislative history are both silent as to whether the accrued interest on a producer's loan is to be treated as a qualified export asset. If the accrued interest is not treated as a qualified export asset, then the taxpayer might fail the 95 percent test under section 992(a)(1)(B). It is, therefore, proposed to treat accrued interest on a producer's loan as a qualified export asset if it is paid within 60 days after the close of the taxable year of accrual. The 60-day period is proposed since this is the same period applying under § 1.994–1(e)(3) with respect to the actual payment of the transfer price charged by a related supplier to a DISC and with respect to payment of sales commissions.

In addition, a 60-day limitation would allow an accrual basis taxpayer to be paid the interest in the normal course of business. A limitation was considered necessary since permitting accrued interest between related parties to qualify as a qualified export asset without any limitation might result in abuse since the interest might be accrued and never paid.

An amendment would also be made to paragraph (d)(1) of § 1.993–2 defining trade receivables. The amendment would add a definition of the term "trade receivables" to a section which had previously been reserved.

An additional amendment would be made to paragraph (e)(5) of § 1.994–1 with respect to a redetermination of the transfer price or repayment of a commission. Where a redetermination results in an additional amount owed by the DISC to its related supplier, the related supplier and DISC may treat all or part of any distribution from previously taxed income which was received from the DISC with respect to the year to which the redetermination relates as an additional payment of transfer price or repayment of a commission and not as a distribution.

Section 1.996–3 of the regulations would also be amended to conform to changes in the Tax Equity and Fiscal Responsibility Act of 1982 which increased the deemed distribution for corporate shareholders of a DISC to 57½ percent while leaving the deemed distribution with respect to noncorporate shareholders at 50 percent. A new paragraph (g) would be added to deal with the computation of accumulated DISC income and previously taxed income for a DISC owned by corporate and noncorporate taxpayers which is necessitated by the change under TEFRA.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the Federal Register.

Regulatory Flexibility Act and Executive Order 12291

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291.

Drafting Information

The principal author of these proposed regulations is Jacob Feldman of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other Offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.861–1 through 1.997–1

Income taxes, Aliens, Exports, DISC, Foreign investments in U.S., Foreign tax credit, Source of income, United States investments abroad.

Proposed Amendments to the Regulations

Part 1—[AMENDED]

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.993–2 is amended by adding paragraph (d)(1) and revising paragraph (f) to read as follows:

§ 1.993–2 Definition of qualified export assets.

* * * * *

(d) *Trade receivables*—(1) *In general.* For purposes of this section, trade receivables are accounts receivable and written evidences of indebtedness due the DISC (or, if it acts as an agent, due its principal) and held by the DISC.

* * * * *

(f) *Producer's loans.* For purposes of this section, a producer's loan is an evidence of indebtedness arising in connection with producer's loans which are made by a DISC and which meet the requirements of § 1.993–4. If a producer's loan is a qualified export asset, interest accrued with respect to the producer's loan will also be treated as a qualified export asset provided that payment is made in cash or property (valued at its fair market value on the date of transfer) no later than 60 days following the close of the taxable year of accrual of the interest.

* * * * *

Par. 2. Section 1.994–1(e) is amended as follows:

1. The last sentence of paragraph (e)(4) is revised to read as set forth below.

2. The last sentence of subdivision (i)(*a*) of paragraph (e)(5) is amended by adding the phrase "due the DISC" after the term "account receivable" the first time such term appears.

3. Subdivision (v) of paragraph (e)(5) is renumbered as subdivision (vi) and a new subdivision (v) is added to read as set forth below.

§ 1.994–1 Inter-company pricing rules for DISCs.

* * * * *

(e) *Methods of applying paragraph (c) and (d) of this section.*

* * * * *

(4) *Subsequent determination of transfer price or commission.* * * * Such a redetermination would include a redetermination by reason of an adjustment under section 482 and the regulations thereunder or section 861 and § 1.861–8 which affects the amounts which entered into the determination of the transfer price or commission.

(5) *Procedure for adjustments to transfer price or commission.*

* * * * *

(v) (*a*) In lieu of establishing an account receivable in accordance with subdivision (i) of this subparagraph for all or part of an amount due a related supplier, the related supplier and DISC are permitted to treat all or part of any distribution which was made by the DISC out of its previously taxed income with respect to the year to which the determination or redetermination relates as an additional payment of transfer price or repayment of commission (and not as a distribution) made as of the date the distribution was made. Any additional amount arising on the determination or redetermination due the related supplier after this treatment shall be represented by an account receivable established under subdivision (i) of this subparagraph. To the extent that a distribution is so treated under this subdivision (v), it shall cease to qualify as distribution for any Federal income tax purpose, and the DISC's account for previously taxed income shall be adjusted accordingly. If all or part of any distribution made to a shareholder other than the related supplier is a recharacterized under this subdivision (v), the related supplier shall establish an account receivable from that shareholder for the amount so recharacterized. Such account receivable shall be paid in the time and manner set forth in this paragraph (e)(5). In order to obtain the relief provided by this subdivision (v), the conditions and procedures prescribed by Revenue Procedure 84–3 must be met.

(*b*) If, for example, during 1982, a DISC commission from a related supplier with respect to a transaction completed in 1980 was redetermined to be $1,000 less than the commission actually charged by, and paid to, the DISC, the amount of distribution previously made by the DISC from its 1980 previously taxed income to the related supplier as a shareholder may, to the extent of $1,000, be treated not as a distribution but as a repayment of the commission.

* * * * *

Par. 3. Section 1.995–2 is amended by adding new paragraphs (a)(4) and (a)(5) and revising paragraph (a)(6)(i) as follows:

§ 1.995–2 Deemed distributions in qualified years.

(a) *General rule.*

* * * * *

(4) For taxable years beginning after December 31, 1975, an amount equal to 50 percent of the taxable income of the DISC for the taxable year attributable to military property (as defined in § 1.995–6).

(5) For taxable years beginning after December 31, 1975, the taxable income for the taxable year attributable to base period export gross receipts (as defined in § 1.995–7).

(6) The sum of—

(i) (A) In the case of a corporate share-holder, an amount equal to 57.5 percent of the excess (if any) (one-half for DISCs' taxable years beginning before January 1, 1983) of the taxable income of the DISC for such year (computed as provided in § 1.991–1(b)(1)) over the sum of the amounts deemed distributed for the taxable year in accordance with subparagraphs (1), (2), (3), (4) and (5) of this paragraph, or

(B) In the case of a non-corporate share-holder, an amount equal to one-half of the excess (if any) of the taxable income of the DISC for such year (computed as provided in § 1.991–1(b)(1)) over the sum of the amounts deemed distributed for the taxable year in accordance with subparagraphs (1), (2), (3), (4), and (5) of this paragraph.

* * * * *

Par. 4. The following §§ 1.995–6 and 1.995–7 are added immediately after § 1.995–5:

§ 1.995–6 Taxable income attributable to military property.

(a) *Gross income attributable to military property.* For purposes of section 995(b)(3)(A)(i), the term "gross income which is attributable to military property" includes income from the sale, exchange, lease, or rental of military property (as described in paragraph (c) of this section). The term also includes gross income from the performance of services which are related and subsidiary (as defined in § 1.993–1(d)) to any qualified sale, exchange, lease, or rental of military property. Where gross income cannot be determined on an item by item basis, the total gross income shall be apportioned. The apportionment shall be according to the fair market value of the property sold or exchanged, the fair rental value of any leaseholds granted, and the fair market value of any related and subsidiary services performed in connection with such sale or lease.

(b) *Deductions.* For purposes of section 995(b)(3)(A)(ii), deductions shall be properly allocated and apportioned to gross income, described in paragraph (a) of this section, in accordance with the rules of § 1.861–8. These deductions include all applicable deductions from gross income provided under part VI of subchapter B of chapter 1 of the Code.

(c) *Military property.* For purposes of this section, the term "military property" means any property which is an arm, ammunition, or implement of war designated in the munitions list published pursuant to section 38 of the International Security Assistance and Arms Export Control Act of 1976 (22 U.S.C. 2778 which superseded 22 U.S.C. 1934) and the regulations thereunder (22 CFR 121.01).

(d) *Illustration.* The principles of this section may be illustrated by the following example:

Example. X Corporation elects to be a DISC for the first time in 1976. X has taxable income of $50,000, of which $30,000 is attributable to military property and $10,000 to interest on producer's loans. The total deemed distributions with respect to X are as follows:

(1) Gross interest from Producer's loans in 1976	$10,000
(2) 50 percent of the taxable income of the DISC attributable to military property in 1976	15,000
(3) One-half of the excess of taxable income for 1976 over the sum of lines (1) and (2) (½ of ($50,000 minus $25,000))	12,500
(4) Total deemed distributions (sum of total lines (1), (2), and (3))	37,500

§ 1.995–7 Taxable income attributable to base period export gross receipts.

(a) *General rule.* This section provides rules for the computation of taxable income attributable to base period export gross receipts. Section 995(b)(1)(E) treats taxable income attributable to base period export gross receipts as a deemed distribution to a shareholder of a DISC for taxable years of a DISC beginning after December 31, 1975. The amount attributable to base period export gross receipts that must be included in income of a shareholder will be referred to as the nonincremental distribution. The nonincremental distribution must be computed for each taxable year of a DISC. Such year will be referred to as the computation year.

(b) *Nonincremental distribution*—(1) *General rule.* The nonincremental distribution for a computation year of a DISC is computed by multiplying the adjusted taxable income of the DISC by a fraction. The numerator of the fraction is the amount of the adjusted base period export gross receipts and the denominator is the amount of the export gross receipts of the DISC for the computation year.

(2) *Adjusted taxable income.* The "adjusted taxable income" is the taxable income of a DISC for the computation year reduced by the amounts described under section 995(b)(1)(A) through (D) and the regulations thereunder.

(3) *Export gross receipts.* The "export gross receipts" is the qualified export gross receipts described in section 993(a)(1) (A), (B), (C), (G), and (H) of a DISC for a taxable year reduced by 50 percent of those receipts which are attributable to military property (as defined under § 1.995–6). For purposes of determining the denominator described in this paragraph (b), if the computation year is a short taxable year, the amount of export gross receipts for that year is multiplied by a fraction. The numerator of the fraction is the number of days which would have been in the taxable year of the taxpayer if there had been a full taxable year and the denominator is the number of days in the short taxable year.

(4) *Adjusted base period export gross receipts.* The amount of adjusted base export gross receipts is 67 percent of the average of the base period export gross receipts.

(c) *Average base period export gross receipts*—(1) *Base period of 48 months or less.* If a DISC has a base period of 48 months or less, the amount of average base period export gross receipts is determined by dividing the base period export gross receipts by number four (4).

(2) *Base period of more than 48 months.* If a DISC has a base period of more than 48 months, the amount of average base period export gross receipts is determined by multiplying the base period export gross receipts by a fraction. The numerator of the fraction is the number 365.25 and the denominator is the total number of days in the base period.

(3) *Change of accounting period.* Notwithstanding paragraph (c)(1) of this section, if a corporation that is a DISC changes its annual accounting period (other than during the first taxable year of its existence), and the effect of such a change creates a base period of less than 48 months, the average base period export gross receipts are determined under paragraph (c)(2) of this section. This paragraph (c)(3) applies with respect to changes of accounting period permitted under § 1.995–7(d)(5).

(4) *Base period export gross receipts.* "Base period export gross receipts" means the aggregate export gross receipts of a DISC for all taxable years beginning during the base period reduced by the base period export gross receipts attributable to property that is excluded from export gross receipts during the computation year. Excluded property is property described in section 993(c)(2)(C) or (D) without regard to the fixed contract exception under § 1.993–3(g)(6). When the fixed contract exception applies, the amount of excluded property is multiplied by a fraction. The numerator of the fraction is the amount of the gross receipts in the computation year attributable to excluded property less the amount of the export gross receipts by reason of the fixed contract exception under § 1.993–3(g)(6). The denominator of the fraction is the total amount of gross receipts in the computation year attributable to excluded property. For taxable years of a DISC ending before November 15, 1982, base period export gross receipts do not include receipts attributable to property sold or leased to a WHTC or receipts which arose in the absence of a written supplier's agreement unless the receipts were treated as qualified export receipts by the taxpayers.

(5) *Illustration.* The following example illustrates the application of paragrph (c)(4) of this section:

Example. X Corporation, a DISC since 1972, derived $2000 from sales of coal and $3000 from sales of foodstuffs in 1976. In 19/5 gross reciepts form the sale of agricultural products

were $1000 and from the sale of coal were $3000. One thousand dollars of the $3000 was derived from sales prior to March 19, 1975, and $2000 from sales made after March 18, 1975, of which $500 of the latter sales were pursuant to a fixed contract. Assume that all gross receipts are qualified export receipts (and, therefore, export gross receipts as provided in paragraph (b) (3) of § 1.995–7) except to the extent that section 993 (c) (2) (C) (which treats natural resources such as coal as excluded property) is applicable. Assume further that the gross receipts for 1972, 1973, and 1974 were each $500, all derived entirely from the sale of foodstuffs and all qualifying as export gross receipts. Under these facts the adjusted base period export gross receipts are determined as follows:

(1) Export gross receipts for 1975:	
(i) Export gross receipts—agricultural products	$1,000
(ii) Export gross receipts—coal	$1,500
(*a*) Sales prior to March 19, 1975	$1,000
(*b*) Sales subsequent to March 18, 1975:	
(1) Fixed contract sales	$500
(2) Non-fixed contract sales	$1,500
Total	$2,000

$$\text{Excluded property receipts (\$2,000)} \times \frac{\text{Excluded property receipts (\$2,000)}}{\text{Excluded property receipts (\$2,000)}} \text{—Fixed contract receipts (\$500)}$$

Total export gross reciepts ($1,000 × 1,500)	$2,500
(2) Adjusted export gross receipts:	
1972 export gross receipts	$500
1973 export gross receipts	500
1974 export gross receipts	500
1975 export gross receipts	2,500
Base period export gross receipts	4,000
Average base period export gross receipts 1972–75	1,000
Adjusted base period export gross recipts (.67 × average for base years	670

(6) *Base years.* The base period is a 4-year period attributable to a computation year. For computation years of a DISC beginning before January 1, 1980, the base period calendar years are 1972, 1973, 1974, and 1975. For other computation years, the base period calendar years are the fourth, fifth, sixth, and seventh calendar years preceding the calendar year in which the compution year begins. If a DISC has taxable years beginning in every base period calendar year, the base period is the period which begins on the first day of the first taxable year beginning in the earliest base period calendar year and ends on the last day of the last taxable year beginning in the latest base period calendar year. A corporation that revoked its election to be treated as a DISC or failed to satisfy the conditions of section 992(a)(1) for a taxable year to be a DISC will, for purposes of cumputing its base period export gross receipts, be treated as a DISC newly established in such subsequent taxable year. However, see paragraph (e)(3) of this section, which treats a disqualification as a separation. This paragraph (c)(6) applies whether or not the DISC qualified (or was treated) as a DISC (within the meaning of section 992 (a)(1) and § 1.992–1) for all taxable years beginning in the base period calendar years. If a DISC does not have a taxable year beginning in every base period calendar year, the base period is the period which begins on the date during the earliest base period calendar year that corresponds to the date on which the first taxable year of the DISC begins, and ends on the last day of the last taxable year of the DISC beginning in the latest base period calendar year.

(7) *Illustrations.* The following examples illustrate the application of this paragraph (c):

Example (1). X Corporation, a DISC, was organized on March 1, 1972, and adopted a taxable year beginning on March 1. With respect to the computation year beginning on March 1, 1976, X's base period calendar years are 1972, 1973, 1974, and 1975. The base period is the period which begins on March 1, 1972, and ends on February 29, 1976.

Example (2). Y Corporation, a DISC, was organized on March 15, 1974, and adopted a taxable year beginning on October 1. With respect to the computation year beginning on October 1, 1977, Y's base period is the period which begins on March 15, 1972, and ends on September 30, 1976.

Example (3). Z Corporation, a DISC, was organized on December 10, 1974, and adopted a taxable year beginning on February 1. With respect to the computation year beginning on February 1, 1980, Z's base period calendar years are 1973, 1974, 1975, and 1976. The base period is the period which begins on December 10, 1973, and ends on January 31, 1977.

(d) *Controlled group*—(1) *General rule.* Where more than one member of a controlled group of corporations (as defined in section 993(a)(3) and § 1.993–1(k)) qualifies or is treated as a DISC, special rules are used to calculate the nonincremental distribution. In such a case, the fraction described in paragraph (d)(2) of this section to compute the nonincremental distribution is the aggregate of the adjusted base period export gross receipts over the aggregate of the computation year export gross receipts for the computation year of every member DISC within the controlled group. This fraction is multiplied by the aggregate adjusted taxable income of each member DISC within the controlled group. The computation of the nonincremental distribution described in this paragraph applies to shareholders of a DISC that is a member of a controlled group even though such shareholder is not a related person within the meaning of § 1.993–1(a)(6).

(2) *Aggregate adjusted base period export gross receipts.* If any DISC that is a member of the controlled group uses a taxable year that is different from another DISC that is a member of the same controlled group, the aggregate of the adjusted base period export gross receipts consists of the sum of the adjusted base period export gross receipts of each of the following DISCs:

(i) The DISC (primary DISC) with respect to which the nonincremental distribution is being determined; and

(ii) All other DISCs (secondary DISCs) that are members of the same controlled group (as defined in section 993(a)(3)) as the primary DISC and whose computation years end with or within the computation year of the primary DISC.

For purposes of this paragraph (d)(2), the base period calendar years of any secondary DISC is the base period calendar years of the primary DISC.

(3) *Aggregate current year export gross receipts.* If paragraph (d)(2) of this section applies, the aggregate of the export gross receipts for the computation year consists of the sum of the export gross receipts of the primary DISC and the export gross receipts of all secondary DISCs for their computation years described in paragraph (d)(2)(ii) of this section.

(4) *Illustrations.* The following examples illustrate the application of this paragraph (d):

Example (1). P Corporation owns all of the stock of V and X Corporations. V owns all of the stock of Y Corporation, a DISC. X owns all of the stock of Z Corporation, a DISC. P, V, X, Y, and Z are members of the same controlled group for all periods involved. V uses a fiscal year ending June 30 as its taxable year. X uses the calendar year as its taxable year. Y and Z both use the calendar year as their taxable years. For the computation year ending in 1980, Y has adjusted taxable income (as defined under paragraph (b)(2) of this section) of $3,000, adjusted base period export gross receipts (as defined under paragraph (b)(4) of this section) of $2,000, and export gross receipts (as defined under paragraph (b)(3) of this section) of $5,000. For the same year, Z has adjusted taxable income of $4,000, adjusted base period export gross receipts of $6,000 and export gross receipts of $5,000. The numerator of the fraction to determine the nonincremental distribution is $8,000, the aggregate of the adjusted base period export gross receipts of Y and Z. The denominator of the fraction is $10,000, the aggregate of the export gross receipts of Y and Z. The nonincremental distribution under paragraph (b)(1) of this section with respect to Y is $2,400 ($3,000 x 8/10), and with respect to Z is $3200 ($4,000 x 8/10).

Example (2). The facts are the same as in example (1) except that Y uses a fiscal year ending January 31 as its taxable year and the computation year ends in 1980. In computing the nonincremental distribution with respect to Z, a calendar year DISC, Z is the primary DISC described in paragraph (d)(2)(i) of this section. In computing the adjusted base period export gross receipts of Y, Y's base period is the same as that of Z even though Y's computation year begins in the calendar year 1979. The adjusted taxable income and current year export gross receipts of Z are for the calendar year beginning January 1, 1980, and the current year export gross receipts of Y are for Y's fiscal year ending January 31, 1980.

(5) *Change of annual accounting period.* Where more than one member of a controlled group of corporations (as defined in section 993(a)(3) and § 1.993–1(k)) qualifies or is treated as a DISC and where any two or more of the member DISCs have different annual accounting periods, the annual accounting periods of the member DISCs may be changed without the approval of the Secretary if, and only if

(i) All member DISCs have the same annual accounting period after the change; and

(ii) The period chosen is the annual accounting period of one of the member DISCs.

In the case of an existing controlled group with member DISCs having different annual accounting periods, the change may be made within one year after (the date of adoption of the regulations as a Treasury decision); and in the case of a newly acquired DISC, the accounting period of such DISC may be changed by adopting the period of any existing DISC within one year after acquisition.

(e) *Separation of DISC and trade or business*—(1) *General rule.* If, at any time after the beginning of the base period of a DISC, there has been a separation of the ownership of the stock in that DISC from the ownership of a trade or business that produced export gross receipts of the DISC, the persons who own the trade or business during the taxable year are treated as having in any DISC in which they have (or acquire) a direct or indirect interest additional export gross receipts attributable to the trade or business for purposes of computing base period export gross receipts. Notwithstanding the separation, the base period export gross receipts remain with the DISC after separation and are taken into account by shareholders of the DISC (whether or not there are new shareholders of the DISC as a result of the separation) in computing the adjusted base period export gross receipts of the DISC for taxable years beginning prior to the year in which the separation occurs.

(2) *Ownership.* A person will be treated as an owner of a trade or business which produced export gross receipts of a DISC if the person owns stock, directly or indirectly, in a corporation that conducts the trade or business. A person will also be treated as an owner of a trade or business if that person is, for example, a partner in a partnership that either conducts the business or owns stock, directly or indirectly, in a corporation that conducts it, a lessee of substantially all the assets of a trade or business, or a licensee of a patent, copyright, trademark, or similar property essential to the conduct of a trade or business. For purposes of this paragraph (e)(2), a person who owns indirectly less than 5 percent of the entity conducting the trade or business shall not be treated as the owner of the trade or business. For purposes of this paragraph (e)(2), stock owned, directly, or indirectly, by or for a corporation, partnership, trust, or estate shall be considered as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence may be treated as actually owned by such person.

(3) *Separation.* A separation occurs if the ratio of a person's percentage ownership interest in a DISC to his percentage ownership in the trade or business which produced export gross receipts of the DISC changes at any time during the year. Thus, if A Corporation owns all the stock of B, C, and D Corporations, and D is a DISC and B and C produced export gross receipts for D, the transfer of the stock of B and C will result in a separation. Similarly, the transfer of the stock of C and the stock of D will result in a separation as will the liquidation of D by A. The disqualification of a DISC by revocation of the election or by failing to satisfy the conditions of section 992(a)(1) for a taxable year shall be treated as a separation, and the export gross receipts produced prior to the disqualification will be attributed to the separated trade or business. A requalified DISC will be treated as having additional export gross receipts attributable to the separated trade or business. For purposes of this paragraph (e)(3), members of the same controlled group (as defined in section 993(a)(3)) will be treated as one person.

(4) *Amount of attribution.* If a separation described in paragraph (e)(3) of this section occurs, the additional amount referred to in paragraph (e)(1) of this section is the amount of the export gross receipts attributable to the separated trade or business.

(5) *Recapture of accumulated DISC income.* If a shareholder of a DISC recaptures accumulated DISC income (as defined in section 996(f)(1)) as a result of a disposition (as described in section 995(c)) of stock in a DISC or a disqualification which results in a separation, the base period export gross receipts of the DISC for base period years prior to the disposition are reduced on a pro rata basis to the extent of the recapture in the taxable year. This reduction does not apply for purposes of determining the amount described in paragraph (e) (1) and (4) of this section which is attributable to the owner of a trade or business after the separation.

(6) *Illustrations.* The principles of this paragraph (e) are illustrated by the following examples:

Example (1). A Corporation owns all the stock of B, C and D Corporations. D is a DISC and B and C each produced $5,000 of the export gross receipts of D. A sells the stock of B to Z, an unrelated party, which organizes P Corporation, a DISC, for which B produces export gross receipts. Under paragraph (e)(3) of § 1.995–7, the sale of the stock of B constitutes a separation and under paragraph (e)(1) and (4), $5,000 of export gross receipts is attributable to P. Under paragraph (e)(1) the export gross receipts of D are $10,000 unchanged by the separation. If D is liquidated by A and F Corporation, a new DISC, is organized. F will have export gross

receipts of $5,000. Under paragraph (3)(5), the export gross receipts of D are eliminated. However, paragraph (e)(5) does not apply to amounts attributable to the owner of the trade or business after the separation under paragraph (e)(4). Therefore, $5,000 is attributable to P (by B) and $5,000 is attributable to F (by C).

Example (2). G Corporation owns all the stock of H and I Corporations and H Corporation owns all the stock of J Corporation, a DISC. During the base period H produces all the export gross receipts of J, which amounts to $25,000. The sale of the stock of H to B does not constitute a separation within the meaning of paragraph (e)(3). If J is liquidated, there will be attributed to any future DISC organized with respect to H the export gross receipts attributable to the separate trade or business. Although the liquidation will result in a recapture of accumulated DISC income, paragraph (e)(5) does not apply for purposes of determining the amount attributable to the owner of the trade or business after the separation, and under paragraph (e)(1) such amount is attributed to any future DISC for which H produces export gross receipts.

Example (3) P Corporation owns several corporations including R Corporation, a DISC, and M Corporation, which has produced export gross receipts for R. P also owns several other DISC's. The stock of M is sold to W Corporation. Assuming That M produced $100,000 of export gross receipts during the base period and that those receipts were the only receipts produced with respect to R, there is a separation under paragraph (e)(3), and under paragraph (e)(1) $100,000 in export gross receipts will be attributable to any DISC that W organizes with respect to M. In addition, under paragraph (e)(1) the export gross receipts of R are unreduced and taken into account in computing base period export gross receipts under the controlled group rules of paragraph (d). If R is liquidated, there will be a recapture of accumulated DISC income and under paragraph (e)(5) a reduction of the export gross receipts of R, but no reduction with respect to any DISC that W organizes with respect to M.

(f) *DISC base period attributed through shareholders*—(1) *In general.* If—

(i) Any person owns 5 percent or more of the stock of a DISC (referred to as the "first DISC"), and

(ii) that person at any time during the base period of the first DISC owned 5 percent or more of the stock of a second DISC, and

(iii) Both DISCs derived export gross receipts from the sale of the same or similar property, or from the performance of the same or similar services,

then the base period export gross receipts of the first DISC are increased by the shareholder's pro rata portion of the base period export gross receipts of the second DISC.

(2) *Exception.* Paragraph (f)(1) of this section does not apply to the extent paragraph (d) or (e) of this section apply.

(3) *Ownership of stock.* For purposes of this paragraph (f), the ownership of stock is determined under section 318.

(4) *Recapture of accumulated DISC income.* The rules with respect to recapture of accumulated DISC income described in paragraph (e)(5) of this section apply with respect to base period attribution under this paragraph.

(5) *Illustration.* The following example illustrates the application of this paragraph.

Example. A Corporation owns all the stock of B and C Corporations and B owns all the stock of D Corporation, a DISC. B produced $10,000 of export gross receipts of D for the base period 1972–1975. On January 1, 1976, A sells all the stock of C to X Corporation, an unrelated corporation. Subsequently A purchases 50 percent of the stock of F Corporation, another DISC, and B conducts all of its export business through F with B as the related supplier. Neither the sale of C by A nor the purchase of F result in a separation with respect to A under paragraph (e) of this section. In addition, D and F are not members of the same controlled group within the meaning of section 993(a)(3), and paragraph (d) of this section does not apply. However, under paragraph (f)(1) of this section, the base period export gross receipts of F are increased by $10,000.

(g) *Small DISC exception*—(1) *Adjusted taxable income of $100,000 or less.* Except as provided in paragraph (g)(4) of this section, if a DISC has adjusted taxable income of $100,000 or less for the taxable year, section 995(b)(1)(E) and this section do not apply for that year.

(2) *Partial exception.* If, for a taxable year, a DISC has adjusted taxable income of more than $100,000 but less than $150,000, the nonincremental distribution under paragraph (b)(1) of this section is reduced (but not below zero) by an amount equal to twice the excess of $150,000 over the adjusted taxable income.

(3) *Short taxable year.* In computing a DISC's adjusted taxable income for purposes of this paragraph (g), when the current taxable year is a short taxable year, the adjusted taxable income for the year is multiplied by a fraction. The numerator of the fraction is the number of days in the full taxable year and the denominator is the number of days in the short taxable year.

(4) *Controlled groups.* If more than one member of a controlled group (as defined in section 993(a)(3)) qualifies, or is treated, as a DISC for the current taxable year, the adjusted taxable income of each member of the group is aggregated for purposes of determining the application of paragraph (g) (1) or (2) of this section. The adjusted taxable income of any DISC for purposes of this aggregation may not be less than zero. The aggregation is made in the same manner and with respect to those DISCs described in paragraph (d)(2) of this section. If the adjusted taxable income of the member DISCs is more than $100,000, but less than $150,000, the nonincremental distribution under paragraph (b)(1) of this section is determined in accordance with paragraph (d) of this section. The reduction determined under paragraph (g)(2) of this section is apportioned among the DISCs described in paragraph (d)(2) of this section in accordance with the ratio which the adjusted taxable income of each member DISC for the year bears to the total adjusted taxable income of all member DISCs for the year. This paragraph (g)(4) applies to a shareholder of a DISC even though the shareholder is not a related person as defined in § 1.993–1 (a)(6).

(h) *Certain transfer of DISC assets*—(1) *In general.* If—

(i) A corporation owns all the stock of a subsidiary and a DISC,

(ii) The corporation transfers (within the meaning of paragraph (h)(4) of this section) all the stock of the subsidiary,

(iii) The subsidiary has been engaged in the active conduct of a trade or business (within the meaning of section 355(b) and regulations thereunder) throughout the 5-year period ending on the date of the transfer, and continues to be so engaged thereafter,

(iv) During the taxable year of the subsidiary in which its stock is transferred, and its preceding taxable year, the trade or business produced qualified export receipts with respect to the subsidiary and the DISC,

(v) The DISC transfers all of its assets related to the conduct of the trade or business to a new DISC in exchange for all the stock of the new DISC, the DISC distributes the stock in the new DISC to the corporation and the corporation transfers the stock in the new DISC to the subsidiary, and

(vi) The transfers described in paragraph (h)(1)(v) of this section are undertaken for the sole purpose of avoiding the application of section 995(e)(9) and paragraph (e) of this section, and, therefore, preventing double attribution under paragraph (e)(1),

Then notwithstanding any other rule or regulation to the contrary, the transfer described in paragraph (h)(1)(v) will be a reorganization within the meaning of section 368(a)(1)(D) to which section 355 applies and an exchange of stock of the new DISC by the corporation for stock of the subsidiary to which section 351 applies.

(2) *Special rule.* If—

(i) A corporation owns, directly or indirectly, all the stock of a subsidiary and a DISC,

(ii) A transfer or transfers described in this paragraph (h)(2) of the stock or assets of the subsidiary and the DISC are for the purpose described in paragraph (h)(1)(vi) of this section, and

(iii) The transfer or transfers occur in a transaction other than one described in paragraph (h)(1)(v) of this section but which satisfies the requirements of paragraphs (h)(1) (iii) and (iv) of this section,

Then the transfer or transfers described in this paragraph (h)(2)(iii) will be a reorganization within the meaning of section 368, a transaction to which section 355 applies, an exchange of stock to which section 351 applies, or a combination of these, as the case may be, provided the transfer or transfers are consistent with the purpose and effect of these described in paragraph (h)(1)(v) of this section.

(3) *Ownership.* Stock owned, directly or indirectly, by a corporation shall be considered as owned proportionately by its shareholders.

(4) *Transfer.* The term "transfer" includes a sale, exchange, or other disposition of property.

(5) *Illustrations.* The following examples illustrate the application of this paragraph (h):

Example (1). P Corporation, which was organized on January 1, 1966, owns all the stock of X and Y Corporations, both also organized on January 1, 1966. X has been engaged in the manufacture of shoes. Y has been engaged in the manufacture of recreational equipment. On January 1, 1972, P organizes Z Corporation, a DISC. X and Y serve as the related suppliers of Z. On January 1, 1977, U Corporation offers to buy the stock of X. As part of an overall plan to section, Z transfers all the export assets that relate to the trade or business conducted by X to V Corporation in exchange for all of the stock of V. Z then distributes all the stock of V to P, which transfers all the V stock to X. Immediately after this series of transactions, P sells all of the X stock to U Corporation. Under paragraph (h)(1) of this section, the transfer and distribution by Z constitute a reorganization under section 368(a)(1)(D) to which section 355 applies, and the exchange by P constitutes an exchange to which section 351 applies. The result would be the same even if P sold less than all of the stock in X.

Example (2). The facts are the same as in example (1), except that Y organizes and owns all the stock of Z. Accordingly, after the transfer by Z, Z distributes the stock of V to Y, wich in turn distributes the stock to P. P transfers all the V stock to X. Under paragraph (h)(2) of this section, the transfers by Z to Y, and Y to P constitute a reorganization described in section 368(a)(1)(D) to which section 355 applies. The transfer by P to X constitutes an exchange to which section 351 applies.

* * * * *

Par. 5. Section 1.996–3 is amended by adding a new paragraph (g) as follows:

§ 1.996–3 Divisions of earnings and profits.

* * * * *

(g) *DISCs having corporate and noncorporate shareholders.* In the case of a DISC having one or more corporate shareholders but less than all of its shareholders subject to the special rules of section 291(a)(4), relating to certain deferred DISC income as a corporate preference item, accumulated DISC income and previously taxed income of the DISC are divided between the corporate shareholders, as a class, and the other shareholders, as a class, in proportion to amounts of DISC income not deemed distributed and amounts deemed distributed to each class. Subsequent taxation of actual and qualifying distributions shall be based upon this division. Thus, if a DISC is owned 50 percent by corporate shareholders and 50 percent by individual shareholders and has undistributed taxable income of $2,000 for its year, the division is made as follows:

Corporate shareholders:	
Previously taxed income (57.5% of $2,000÷2)	$575
Accumulated DISC income (42.5% of $2,000÷2)	425
Individual shareholders:	
Previously taxed income (50% of $2,000÷2)	500
Accumulated DISC income (50% of $2,000÷2)	500

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 84-519 Filed 1-6-84; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 140 and 142

[CGD 79-077]

Workplace Safety and Health Requirements for Facilities on the Outer Continental Shelf

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to issue regulations concerning personal protection equipment and general working conditions on facilities and mobile offshore drilling units engaged in Outer Continental Shelf (OCS) activities. This proposal addresses the need identified in the OCS Lands Act Amendments of 1978 to promote safe working conditions by regulating hazards in the workplace. This proposal is part of a continuing effort by the Coast Guard to improve safety of life and property on the OCS.

DATES: Comments must be received on or before February 23, 1984.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/44) (CGD 79-077), U.S. Coast Guard, Washington, DC 20593. Comments will be available for inspection or copying from 7:30 am to 4:00 pm on Monday through Friday at the Marine Safety Council (G-CMC), Room 4402, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593 (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: LCDR Alan J. Cross, G-MVI-4 (202) 426-2307.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate by submitting written views, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CG 79-077), and include sufficient detail to indicate the basis on which each comment is made. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope.

The proposed rules may be changed in view of comments received. All comments received on or before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the Federal Register if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Lieutenant Dennis J. Cashman, G-MVI-4, Office of Merchant Marine Safety, and Mr. Stephen H. Barber, Project Counsel, Office of the Chief Counsel. Lt. Cashman has since been transferred from G-MVI-4.

Background

These proposals are part of a continuing program under authority of

the Outer Continental Shelf (OCS) Lands Act Amendments of 1978 (Pub. L. 95–372) to address hazardous working conditions on the OCS. This rulemaking is limited to personal protection equipment requirements and to certain general working conditions. Furthermore, this rulemaking is limited to OCS facilities as defined in 33 CFR 140.10. Under this definition, an "OCS facility" includes fixed and floating platforms and structures, as well as mobile offshore drilling units (MODU's) when attached to the seabed for the purpose of exploration and exploitation of subsea resources.

Existing Coast Guard regulations affecting OCS facilities are primarily concerned with design, equipment, operations, and inspections. This proposal constitutes an initial effort to address new areas, such as personal protection equipment and general working conditions. In the future, the Coast Guard will be proposing additional regulations concerning other problems of the workplace, such as training, but will do so under separate rulemaking projects.

On September 20, 1979, an Advance Notice of Proposed Rulemaking on unregulated hazardous working conditions on the OCS was published in the Federal Register (44 FR 54499). In response to the advance notice, many industry representatives stated that the Coast Guard should not develop new standards for the OCS because existing industry standards and practices are adequate. The Coast Guard recognizes that industry associations and conscientious companies have developed and implemented extensive safety standards and programs to reduce accidents and injuries occurring to personnel. However, these industry standards and programs are voluntary. The Coast Guard proposal would make the industry standards and practices addressed mandatory. This approach would provide new impetus for less conscientious companies, subcontracts, and workers to observe certain accepted workplace safety practices.

This initial proposed rulemaking attempts to focus on personal protection, a subject which benefits the worker most directly and which is covered by existing industry standards. This rulemaking is not intended to supplant existing industry safety programs. Ongoing safety efforts within industry are encouraged. Comments received to the advance notice concerning matters not addressed in this proposal will be considered under appropriate future rulemaking projects.

Discussion of the Proposed Amendments

This rulemaking would amend Part 142 of Subchapter N, Chapter I, Title 33 of the Code of Federal Regulations. Existing Part 142, entitled "Workplace Safety and Health," as published in the Federal Register on March 4, 1982 (47 FR 9366). The existing regulations in Part 142, §§ 142.1 and 142.5, specify the duties of lessees, permittees, and persons responsible for actual operations and prescribe the procedure for reporting unsafe working conditions. These sections would be incorporated into this rulemaking without change. Only the section numbers presently assigned to them would be changed for organizational purposes.

Part 140

Existing Part 140, containing general requirements applicable throughout Subchapter N (Parts 140 through 147), would be amended to include a new definition and several additions to the Incorporation by Reference section.

Section 140.7 would add five standards of the American National Standard Institute (ANSI) to the list of materials incorporated by reference. These standards specify industry accepted practices and equipment specifications concerning personal protection equipment. The Coast Guard is making an effort, where practical, to rely on existing industry standards for the purpose of brevity and uniformity.

Section 140.10 would be amended to add a definition of the term "personnel." This term would mean all persons on a unit by reason of their employment and would include not only those in the employment of the unit owner or unit lessee but also those of the oil company operator and of each of the subcontractors working on the unit.

Part 142

Subpart A

Proposed § 142.1 states the purpose for the entire Part 142, which is to promote workplace safety and health by regulating certain operations and equipment and requiring the use of specified personal protection devices.

Proposed §§ 142.4 and 142.7 are existing § 142.1 and 142.5 renumbered without further change.

Subpart B

Proposed Subpart B would apply only on OCS facilities which, by definition under § 140.10, include MODU's when in contact with the seabed for the purpose of exploration or exploitation of subsea resources.

Proposed § 142.24 would prescribe additional responsibilities for those persons listed in proposed § 142.4 (i.e. lessees, permittees, and persons responsible for actual operations). These persons would ensure that the safety equipment prescribed by this part is made available to personnel required to use the equipment.

Proposed § 142.27, eye and face protection, proposed § 142.30, head protection, and proposed § 142.33, foot protection, would establish requirements for the use of protection equipment that meets specifications established by the American National Standards Institute.

Proposed §142.36, protective clothing, is intended to be performance oriented. Persons exposed to flying particles, molten metal, radiant energy, heavy dust, toxic chemicals, or hazardous materials would be required to wear clothing recognized within the industry as providing protection against the hazard involved. For example, workers exposed to dusts, vapors, moisture, or corrosive liquids might wear clothing made of impervious material, such as rubber, neoprene, vinyl, or polypropylene. Leather clothing might be used for protection against heat or splashes of hot metal.

Proposed § 142.39, respiratory protection, incorporates the American National Standard Practices for Respiratory Protection, ANSI Z88.2–1980, for the proper selection, use, and care of respiratory protection devices used in hazardous environments. Persons listed in proposed § 142.4 (i.e. lessees, permittees, and persons responsible for actual operations) would be given the additional responsibility of ensuring that personnel using respiratory protection devices are properly trained in the use of the equipment and made aware of the health hazards should the worker fail to use the equipment.

Proposed §142.42 is intended to reduce the likelihood of falls greater than ten feet by requiring the use of safety belts and lifelines.

Proposed § 142.45, personal flotation devices, is intended to reduce the likelihood of personnel drowning after falling into water.

Proposed § 142.48 would require that eyewash equipment is maintained on the drill floor and in the mud rooms. These are the areas where the worker is most exposed to particulate matter in the atmosphere. The type of eyewash equipment is not specified and may include fountains, drench showers, hand-held drench hoses, portable eye/face wash units, or combination

showers. The main concern is that the equipment provides emergency relief and is immediately available. Continued treatment may be necessary elsewhere on the unit.

Subpart C

This proposed subpart concerns hazards of a general nature which may exist throughout the workplace. This proposed Subpart would apply only on OCS facilities which, by definition under § 140.10, includes MODU's when in contact with the seabed for the purpose of exploration or exploitation of subsea resources.

Proposed § 142.84, housekeeping, would prescribe requirements intended to reduce the incidence of workers slipping and tripping. Temporary padeyes, wire rope slings, air hoses, arc welding leads, and chain falls which are not removed after use and spills which are not cleaned up can become major causes of trips and falls.

Proposed § 142.87 would address the hazard of unguarded openings by requiring the installation of netting, planking, or other devices to prevent persons from falling through the openings.

Proposed § 142.90, lockout and tagout system, is intended to warn others that maintenance or repair work on machinery or equipment is being conducted.

Incorporation by Reference

This proposal would add five ANSI standards to the list of materials incorporated by reference in existing § 140.7. Approval by the Director, Office of the Federal Register, will be requested. Should this material be changed by ANSI at some later time, the changes may be considered for incorporation. However, before taking final action, the Coast Guard would publish a notice in the Federal Register for public comment.

The material incorporated by reference will be maintained on file at the Library of the Office of the Federal Register, Room 8301, 1100 T Street, NW., Washington, DC 20408 and available for inspection at Coast Guard Headquarters, Room 4407, 2100 2nd Street, SW., Washington, DC 20593. Copies of the materials may be purchased from the American National Standards Institute, Sales Department, 1430 Broadway, New York, N.Y. 10018.

Regulatory Evaluation

This proposed regulatory action is considered to be "non-major" under Executive Order 12291 (46 FR 13193; February 19, 1982) and classified as "non-significant" under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis, and Review of Regulations," dated May 22, 1980. Though exempt from the requirement for Regulatory Impact Analysis under E.O. 12291, a draft Regulatory Evaluation has been prepared, copies of which are available for inspection or copying at the Office of the Marine Safety Council, Room 4402, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, DC 20593, (202) 426-1477.

These proposed requirements should not impose substantial costs on industry. Costs per facility would vary depending upon the number of persons on board, the nature of the activities conducted, and the degree to which the facility already complies with these proposals. The total initial cost for the proposed personal protection equipment, eyewash equipment, and respiratory protection training for a mobile drilling unit with a 50 person crew would be approximately $12,000. The total initial cost for a manned fixed facility with a 25 person crew would be $5,000. Based upon 200 mobile drilling units and 600 manned fixed facilities, the maximum industry cost would be $5,400,000. In actuality, these costs would most likely be substantially less. Discussions with industry representatives indicate that many offshore companies already include some personal protection equipment and training as elements of their safety program. Because of the level of compliance which already exists, industry should have minor difficulty adjusting to these proposed requirements. Additionally, compliance with these proposed requirements may reduce industry operating costs for insurance premiums and worker compensation by reducing the frequency and severity of injuries.

These rules would not impact state or local government and would have a negligible effect on costs to consumers.

Knowledgeable persons are requested to provide information on the economic impact of the proposed regulations.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 through 612), the Coast Guard must consider whether the rule it is proposing is likely to have a significant economic impact on a substantial number of "small entities". "Small entities" include independently owned and operated small businesses which are not dominant in their field and which would otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

The economic impact of the proposed regulations would fall on the owners, operators, and subcontractors furnishing the personal protection equipment required by this proposal. Oil company operators and owners of OCS units are generally major corporations or subsidiaries of major corporations. However, the degree of impact on the numerous subcontractors providing specialized services offshore is not known. It appears, however, that the impact will be roughly proportional to the number of employees and that, therefore, the small entities will incur less cost. Comments on this point are requested.

Personal protection equipment manufacturers would be affected because only equipment meeting ANSI standards would be acceptable offshore. This may require certain manufacturers to redesign their equipment in order to remain competitive in the offshore market. However, the effect on manufacturers would not be substantial because most of the personal protection equipment being purchased for offshore use already meets ANSI standards.

For the above reasons, it is certified that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. If, however, you feel that your business may qualify as a small entity and that the proposed rules would have a significant economic impact on the business, please notify the Coast Guard (see ADDRESSES) and explain why you feel your business qualifies and in what way and to what degree the proposed regulations would have an economic effect on your business.

Paperwork Reduction Act

The information collection requirements contained in this regulation have been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Environmental Assessment

The Coast Guard has considered the environmental impact of the regulations and concluded that the preparation of an environmental impact statement is not necessary. An environmental assessment with a finding of no significant impact has been prepared and is on file in the rulemaking docket.

List of Subjects in 33 CFR Parts 140 and 142

Continental shelf, Marine safety.

In consideration of the foregoing, Parts 140 and 142 of Subchapter N,

Chapter I, Title 33, Code of Federal Regulations, are amended as follows:

PART 140—GENERAL

1. The authority citation for Part 140 reads as follows:

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 655 (43 U.S.C. 1348); sec. 30 of sec. 208, Pub. L. 95-372, 92 Stat. 669 (43 U.S.C. 1356); 49 CFR 1.46(z).

2. In § 140.7, paragraph (b) is revised to read as follows:

§ 140.7 Incorporation by reference.

* * * * *

(b) The materials approved for incorporation by reference in this subchapter are:

American National Standards Institute (ANSI)

ANSI A10.14, Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use.

ANSI Z41.1, Safety—Toe Footwear.

ANSI Z87.1, Practice for Occupational and Educational Eye and Face Protection.

ANSI Z88.2, Practices for Respiratory Protection.

ANSI Z89.1, Safety Requirements for Industrial Head Protection.

* * * * *

3. In § 140.10, a new term is added as follows:

§ 140.10 Definitions.

As used in this subchapter:

* * * * *

"Personnel" means individuals on a unit by reason of their employment.

* * * * *

4. By revising Part 142 to read as follows:

PART 142—WORKPLACE SAFETY AND HEALTH

Subpart A—General

Sec.
142.1 Purpose.
142.4 Duties of lessees, permittees, and persons responsible for actual operations.
142.7 Reports of unsafe working conditions.

Subpart B—Personal Protective Equipment

142.21 Purpose and applicability.
142.24 Availability of equipment.
142.27 Eye and face protection.
142.30 Head protection.
142.33 Foot protection.
142.36 Protective clothing.
142.39 Respiratory protection.
142.42 Safety belts and lifelines.
142.45 Personal flotation devices.
142.48 Eyewash equipment.

Subpart C—General Workplace Conditions

Sec.
142.81 Purpose and applicability.
142.84 Housekeeping.
142.87 Guarding of deck openings.
142.90 Lockout and tagout.

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 21 of sec. 208, Pub. L. 95-372, 92 Stat. 654 (43 U.S.C. 1347); sec. 22 of sec. 208, Pub. L. 95-372, 92 Stat. 655 (43 U.S.C. 1348); 49 CFR 1.46(z).

Subpart A—General

§ 142.1 Purpose.

This part is intended to promote workplace safety and health by establishing requirements relating to personnel, workplace activities and conditions, and equipment on the Outer Continental Shelf.

§ 142.4 Duties of lessees, permittees, and persons responsible for actual operations.

(a) Each holder of a lease or permit under the Act shall ensure that all places of employment within the lease area or within the area covered by the permit the OCS are maintained in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(b) Persons responsible for actual operations, including owners, operators, contractors, and subcontractors, shall ensure that those operations subject to their control are conducted in compliance with workplace safety and health regulations of this part and, in addition, free from recognized hazards.

(c) "Recognized hazards", in paragraphs (a) and (b) of this section, means conditions which are—

(1) Generally known among persons in the affected industry as causing or likely to cause death or serious physical harm to persons exposed to those conditions; and

(2) Routinely controlled in the affected industry.

§ 142.7 Reports of unsafe working conditions.

(a) Any person may report a possible violation of any regulation in this subchapter or any other hazardous or unsafe working condition on any unit engaged in OCS activities to an Officer in Charge, Marine Inspection.

(b) After reviewing the report and conducting any necessary investigation, the Officer in Charge, Marine Inspection, notifies the owner or operator of any deficiency or hazard and initiates enforcement measures as the circumstances warrant.

(c) The identity of any person making a report under paragraph (a) of this section is not made available, without the permission of the reporting person, to anyone other than those officers and employees of the Department of Transportation who have a need for the record in the performance of their official duties.

Subpart B—Personal Protective Equipment

§ 142.21 Purpose and applicability.

This subpart prescribes requirements concerning personal protection on OCS facilities.

§ 142.24 Availability of equipment.

(a) Each holder of a lease or permit under the Act shall ensure that the personal protection equipment specified by this subpart is made available to the personnel, within the lease area or the area covered by the permit, who are required under this subpart to use the equipment.

(b) Persons responsible for actual operations shall ensure that the personal protection equipment specified by this subpart is made available to the personnel engaged in the operation who are required under this subpart to use the equipment.

§ 142.27 Eye and face protection.

(a) Personnel engaged in welding, grinding, machining, chipping, handling chemicals, or acetylene burning or cutting shall wear the eye and face protector specified for the operation in Figure 8 of American National Standard Practice for Occupational and Educational Eye and Face Protection, ANSI Z87.1 and meeting the specifications of that standard.

(b) Eye and face protectors must be maintained in good condition.

(c) Each eye and face protector must be marked by the manufacturer with the information required by ANSI Z87.1 for that type of protector.

§ 142.30 Head protection.

(a) Personnel working in areas where there is a danger of falling objects or of contact with electrical conductors shall wear the head protector meeting the specifications of American National Standard Safety Requirements for Industrial Head Protection, ANSI Z89.1, for the danger involved.

(b) Each head protector must be marked by the manufacturer with the information specified by ANSI Z89.1 for that type of protector and for the danger involved.

§ 142.33 Foot protection.

(a) Except while in living quarters and offices, personnel shall wear footwear meeting the specifications of American National Standard for Safety-Toe Footwear, ANSI Z41.1.

(b) Each pair of footwear must be marked by the manufacturer with the information specified by ANSI Z41.1 for that type of footwear.

§ 14.236. Protective clothing.

Personnel in areas where there are flying particles, molten metal, radiant energy, heavy dust, or hazardous materials shall wear clothing and gloves providing protection against the danger involved.

§ 142.39 Respiratory protection.

(a) Personnel in an atmosphere specified under American National Standared Practices for Respiratory Protection, ANSI Z88.2, requiring the use of respiratory protection equipment shall wear the type of respiratory protection equipment specified in ANSI Z88.2 for that atmosphere.

(b) Before personnel enter an atmosphere specified under ANSI Z88.2 requiring the use of respiratory protection equipment, the persons listed in § 142.4 shall ensure that the personnel entering the atmosphere—

(1) Follow the procedures stated in Section 6 of ANSI Z88.2 concerning the proper selection of a respirator and individual fit testing;

(2) Are trained in the matters set forth in Section 7 of ANSI Z88.2 concerning proper use of the equipment to be used; and

(3) Are made aware, in terminology understandable to the personnel entering the atmosphere, of the short and long term harmful effects of exposure to the atmosphere involved.

(c) All respiratory protection equipment must be approved, used, and maintained in accordance with ANSI Z88.2.

§ 142.42 Safety belts and lifelines.

(a) Personnel engaged in an activity where there is a danger of falling 10 or more feet must wear a safety belt or harness secured by a lanyard to a lifeline, drop line, or fixed anchorage.

(b) Each safety belt, harness, lanyard, lifeline, and drop line must meet the specifications of American National Standard Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use, ANSI A10.14.

§ 142.45 Personal flotation devices.

When a person is working in a location such that, if the person fell, the person would likely fall into water, the person must wear either a unicellular plastic foam workvest that meets the requirements of 46 CFR 160.053 or a life preserver that meets the requirments of 46 CFR 160.002, 160.005, or 160.055.

§ 142.48 Eyewash equipment.

Portable or fixed eyewash equipment providing emergency relief must be immediately available on the drill floor and in each mudroom.

Subpart C—General Workplace Conditions

§ 142.61 Purpose and applicability.

This subpart prescribes requirements relating to general working conditions on OCS facilities.

§ 142.64 Housekeeping.

All staging, platforms, and other working surfaces and all ramps, stairways, and other walkways must be kept clear of tools, materials, and equipment not in use and be kept free of substances which create a slipping hazard.

§ 142.67 Guarding of deck openings.

Openings in decks must be covered or guarded in order to prevent a persons foot or body from passing through the opening.

§ 142.90 Lockout and tagout.

(a) While repair or other work is being performed on equipment powered from an external source, the equipment must be disconnected from the power source or otherwise deactivated, unless the nature of the work being performed necessitates that the power be connected or the equipment activated.

(b) A sign must be placed at the point where the equipment connects to a power source and at the activation control warning—

(1) That equipment is being worked on; and

(2) If then power source is disconnected or the equipment deactivated, that the power source must not be connected or the equipment activated.

(c) The signs must not be removed without the permission of either the person who placed them or that person's immediate supervisor.

(d) If the equipment has a lockout or other device designed to prevent unintentional activation of the equipment, the lockout or other device must be engaged while the work is being performed on the equipment, unless the nature of the work being performed necessitates that the equipment be activated.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

September 9, 1983.

[FR Doc. 84-403 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-14-M

LEGAL SERVICES CORPORATION

45 CFR Part 1609

Fee-Generating Cases

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule makes slight revisions to the Corporation's regulations governing acceptance by recipients of cases expected to general an award of attorneys' fees and adds a new section of accounting for attorneys' fees which are recieved. The revisions are needed to ensure that inappropriate cases are not accepted, and the accounting rules are needed to ensure proper accounting for and use of fees received.

DATES: Comments must be received on or before February 8, 1984.

ADDRESS: Comments may be submitted to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION: In addition to a technical update of the citations in § 1609.4(d), there are three changes in this regulation. The most important of these changes is the addition of a new § 1609.6 (the old § 1609.6 is renumbered § 1609.7) concerning accounting for attorneys' fees received by a recipient. This section requires these fees to be returned to the fund from which resources to litigate the case came and requires that the fee be recorded during the accounting period in which the program receives the award. The cash basis for accounting for attorney fees is adopted because attorney fees are often not collectible until months or even years after the original award, and, consequently, an accrual basis for accounting for attorney fees could result in unrealistically considering a program to have resources that are not in fact available.

Section 1609.4(a)(3) is deleted. It allowed a recipient to accept a fee-generating case if it was the type attorneys in the area generally do not accept. This deletion establishes a requirement that an actual, specific effort be made to refer each fee-generating case, except that such a case may still be initiated without such an effort in emergency circumstances, or if it falls into certain limited categories, such as a case seeking certain social security benefits.

Section 1609.8(c) (formerly 1609.7(c)) is amended by substituting the specific standard "when the case meets the standards set forth in § 1609.5" for the vague "when appropriate." This sets a specific standard for sharing fees with private counsel which is the same as the standard for accepting fee-generating cases.

List of Subjects in 45 CFR Part 1609

Legal Services

For the reasons set out in the preamble, 45 CFR Part 1609 is proposed to be revised as follows:

PART 1609—FEE-GENERATING CASES

Sec.
1609.1 Purpose.
1609.2 Definition.
1609.3 Prohibition.
1609.4 Authorized Representation in a Fee-Generating Case.
1609.5 Acceptance of Fees.
1609.6 Accounting for Attorneys' Fees.
1609.7 Acceptance of Reimbursement.
1609.8 Applicability.

Authority: Sec. 1007(b)(1) Legal Services Act of 1974, as amended (42 U.S.C. 2996f(b)(1)).

§ 1609.1 Purpose.

This part is designed to insure that recipients do not compete with private attorneys and, at the same time, to guarantee that eligible clients are able to obtain appropriate and effective legal assistance.

§ 1609.2 Definition.

"Fee-generating case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds, or from the opposing party.

§ 1609.3 Prohibition.

No recipient shall use funds received from the Corporation to provide legal assistance in a fee-generating case unless other adequate representation is unavailable. All recipients shall establish procedures for the referral of fee-generating cases.

§ 1609.4 Authorized Representation in a Fee-Generating Case.

Other adequate representation is deemed to be unavailable when:

(a) The recipient has determined that free referral is not possible because:

(1) The case has been rejected by the local lawyer referral service, or by two private attorneys; or

(2) Neither the referral service nor any lawyer will consider the case without payment of a consultation fee; or

(3) Emergency circumstances compel immediate action before referral can be made, but the client is advised that if appropriate, and consistent with professional responsibility, referral will be attempted at a later time; or

(b) Recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other non-pecuniary relief, or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims; or

(c) A court appoints a recipient or an employee of a recipient pursuant to a statute or a court rule or practice of equal aplicability to all attorneys in the jurisdiction; or

(d) An eligible client is seeking benefits under subchapter II of the Social Security Act, 42 U.S.C. 401, *et seq.*, as amended, Federal Old Age, Survivors, and Disability Insurance Benefits; or subchapter XVI of the Social Security Act, 42 U.S.C. 1381, *et seq.*, as amended, Supplemental Security Income for Aged, Blind, and Disabled.

§ 1609.5 Acceptance of Fees.

A recipient may seek and accept a fee awarded or approved by a court or administrative body, or included in a settlement, if:

(a) The requirements of 1609.4 are met, and

(b) Funds received are not used for purposes prohibited by the Act, and are accounted for in the manner directed by the Corporation.

§ 1609.6 Accounting for Attorneys' Fees.

Fees awarded to a recipient represent compensation to the recipient for resources expended in litigating a particular matter. The revenue from such fees should be recorded in the same fund to which the related expenses have been charged. The revenue should be recorded during the accounting period in which the award is received.

§ 1609.7 Acceptance of Reimbursement.

When a case or matter subject to this part results in a recovery of damages, other than statutory benefits, a recipient may accept reimbursement from the client for out-of-pocket costs and expenses incurred in connection with the case or matter, if

(a) The requirements of 1609.4 are met, and

(b) The client has agreed in writing to reimburse the recipient for such costs and expenses.

§ 1609.8 Applicability.

Nothing in this part shall prevent a recipient from:

(a) Requiring a client to pay court fees when the client does not qualify to proceed in forma pauperis under the rules of the jurisdiction;

(b) Accepting a fee in a case that was initiated prior to adoption of this part; or

(c) Acting as co-counsel with a private attorney when the case meets the standards set forth in Section 1609.5, and accepting part of any fee that may result from a shared case.

Dated: January 3, 1984.

Alan R. Swendiman,

General Counsel.

[FR Doc. 84-440 Filed 1-6-84; 8:45 am]

BILLING CODE 6820-35-M

45 CFR Part 1620

Priorities in Allocation of Resources

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises the required recipient priority-setting process and adds two new sections to the rule. These changes and additions are needed to increase the range of participation in the priority setting process, make it more effective, and assure more equal access to services. The proposed rule mandates inclusion of the private bar, sets specific periodic time deadlines for completion of the priority-setting process, requires more equal access to services, and requires that a case acceptance schedule be set up to implement the priorities adopted.

DATE: Comments must be received on or before February 8, 1984.

ADDRESS: Comments may be submitted to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION:

General

In the course of its regular oversight and monitoring activities, the Corporation has found that the priority-setting process has not been implemented in a regular and timely fashion by all recipients, that it has not ensured equal access to similarly situated clients, and that priorities set have frequently not been reflected in the cases actually accepted. This proposed rule is designed to remedy these defects, make the priority-setting process more effective and broaden participation therein.

Equal Access

Section 1620.1, "Purpose," is revised by adding to the objectives stated therein, the objective of providing to all potentially eligible clients "substantially equal access to the same types of services and level of representation, unless differences in level of services are based on differences in financial resources." This language does not require that recipients rank clients on the basis of financial resources, but does allow differences in financial resources as a justification for differences in access. This amendment to the purpose section is made effective by the addition of a new Section 1620.3 entitled "Access" (the old § 1620.3, "Review," is renumbered 1620.4). Section 1620.3 specifically mandates that services be geographically distributed in reasonable proportion to the distribution of eligible clients.

Procedures and Time Deadlines

Section 1620.2(a) is revised to include the private bar among groups whose input is required in the assessment process. Section 1620.2(c) is revised to require an initial written report on priorities by June 30, 1984, to require this report to be submitted to the Corporation for approval, and to increase the scope of this report to include a case acceptance schedule and a report on composition, training and support of the recipient's personnel.

Section 1620.2(a) is further revised to require a full needs assessment at least once every two years and a new § 1620.2(d) is added requiring a needs assessment by December 31, 1984, for any recipient which has not carried out such assessment since January 1, 1982.

Section 1620.4 is revised to require a report to the Corporation on the recipient's review of priorities at least annually after the initial review required in § 1620.2(c) and to expand the scope of the report to cover all the matters listed in § 1620.2(c), the date of the most recent needs assessment, the timetable for the next one, and the mechanisms to be used to ensure effective client participation in priority-setting.

Case Acceptance and Priorities

A new § 1620.5 is added requiring that the governing body of each recipient establish policies and procedures that insure that cases accepted do in fact substantially comply with the priorities adopted by the recipient.

The list of factors which must be considered by a recipient in setting priorities (Section 1620.2(b)) is amended by deleting (7), consonant with the Corporation's current policy that priorities should be set based on the right of the individual client to legal assistance rather than a judgment as to what cases may have the most impact on eligible clients of a class.

List of Subjects in 45 CFR Part 1620

Legal Services

For the reasons set forth in the preamble, 45 CFR Part 1620 is proposed to be revised as follows:

PART 1620—PRIORITIES IN ALLOCATION OF RESOURCES

Sec.
1620.1 Purpose.
1620.2 Procedure.
1620.3 Access.
1620.4 Review.
1620.5 Case Acceptance.

Authority: Section 1007(a)(2) Legal Services Corporation Act of 1974, as amended (42 U.S.C. 2996f(a)(2)).

§ 1620.1 Purpose.

This part is designed to insure that a recipient, through policy and plans adopted by its governing body, takes into account the view of eligible clients, staff, the private bar and other interested persons in establishing priorities for allocating its resources in an economical and effective manner, consistent with the purposes and requirements of the Act and other provisions of Federal law; it is further designed to ensure that all potential eligible clients are provided substantially equal access to the same types of services and levels of representation, unless differences in level of services are based on differences in financial resources.

§ 1620.2 Procedure.

(a) A recipient shall adopt procedures for establishing priorities in the allocation of its resources. The procedures adopted shall:

(1) Include an effective assessment, conducted at least once every two years, of the needs of eligible clients in the geographic areas served by the recipient, and their relative importance, based on information received from potential or current eligible clients solicited in a manner reasonably calculated to obtain the attitude of all significant segments of the client population, as well as input from the recipient's employees, governing body members, the private bar, and other interested persons. In addition to substantive legal problems, the assessment shall address the need for outreach, training of the recipient's employees, and support services;

(2) Insure an opportunity for participation by all significant segments of the client community and the recipient's employees in the setting of priorities, in the development of the report required by Paragraph (c), and in the review required by Section 1602.4, and provide an opportunity for comment by interested members of the public.

(b) The following factors shall be among those considered by the recipient in establishing priorities:

(1) The assessment described in paragraph (a)(1) of this section;

(2) The population of eligible clients in the geographic areas served by the recipient, including all significant segments of that population with special legal problems or special difficulties of access to legal services;

(3) The resources of the recipient;

(4) The availability of another source of free or low-cost legal assistance in a particular category of cases or matters;

(5) The availability of other sources of training, support, and outreach services;

(6) The relative importance of particular legal problems of the clients of the recipient;

(7) The susceptibility of particular problems to solution through legal processes; and

(8) Whether legal efforts by the recipient will complement other efforts to solve particular problems in the area served.

(c) By June 30, 1984, each recipient shall prepare an initial written report describing its priorities, how they were developed, a resultant case acceptance schedule, and the implications of those priorities for the allocation of its resources and the composition, training, and support of its personnel. This report shall be submitted to the Corporation for approval and shall be available to the public.

(d) Any recipient which has not conducted a substantial needs assessment as a part of its priority-setting process since January 1, 1982, shall do so prior to December 31, 1984.

§ 1620.3 Access.

A recipient shall adopt priorities in the allocation of resources, consistent with the purposes and requirements of the Act, regulations, guidelines and instructions, which substantially provide that all potential eligible clients in the recipient's service area have equal access to the same types of services and level of representation. Availability of services should be reasonably proportional to the distribution of eligible clients by county or parish within the recipient's service area. Where a recipient serves an area that is not easily defined by parish or county

jurisdictions, other units of political subdivision should be utilized.

§ 1620.4 Review.

Priorities shall be reviewed at least annually. After the initial report described in Section 1620.2(c) each recipient shall submit to the Corporation an annual report summarizing the review of priorities, the date of the most recent needs assessment, the timetable for the future assessment of needs and evaluation of priorities, and mechanisms which will be utilized to ensure effective client participation in priority-setting, and any changes in priorities. The report shall also include a copy of a case acceptance plan or schedule adopted as a result of the priority review and an assessment of the changes made in current operations of the recipient as a result of the priority review. The following factors shall be among those considered in determining whether the recipient's priorities should be changed: (a) The extent to which the objectives of the recipient's priorities have been accomplished; (b) changes in the resources of the recipient; (c) changes in the size or needs of the eligible client population; and (d) implementation of Section 1620.3.

1620.5 Case Acceptance.

The governing body of a recipient shall establish policies and procedures that assure clients and the Corporation that cases which are accepted for representation of eligible clients substantially comply with the priorities adopted by the recipient.

Dated: January 3, 1984.

Alan R. Swendiman,

General Counsel.

[FR Doc. 84-441 Filed 1-6-84; 8:45 am]

BILLING CODE 6820-35-M

45 CFR Part 1626

Restrictions on Legal Assistance to Aliens

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: The 1984 appropriation for the Legal Services Corporation continues unchanged the restictions in the 1983 Continuing Resolution. This proposed rule amends the regulations the Corporation adopted pursuant to that Continuing Resolution (45 CFR Part 1626) so they continue to govern the use of funds under the 1984 appropriation. Thus, the current Corporation regulations restricting representation of aliens continue to apply to all recipients of 1984 funding.

DATES: Comments must be received on or before February 8, 1984.

ADDRESS: Comments may be submitted to Office of General Counsel, Legal Services Corporation, 733 Fifteenth Street, NW., Room 620, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: John C. Meyer, Deputy General Counsel, (202) 272-4010.

SUPPLEMENTARY INFORMATION:

List of Subjects in 45 CFR Part 1626

Privacy, Aliens, Legal services, Reporting and recordkeeping requirements.

For the reasons set out in the preamble 45 CFR Part 1626 is proposed to be amended as follows:

PART 1626—[AMENDED]

1. Authority: Section 1008(e) Legal Services Corporation Act of 1974, as amended (42 U.S.C. 2996g(e)); Pub. L. 97-377, 96 Stat. 1874; Pub. L. 98-166.

2. Section 1626.1 is amended by inserting at its end the word "or Public Law 98-166".

3. Section 1626.2 is amended by inserting at the end of paragraph (b) the words "or Public Law 98-166".

4. Section 1626.3 is amended by inserting in paragraph (a), after the words "or Public Law 97-377" the words "or Public Law 98-166; by inserting in paragraph (b)(1) in the third from last line, after the words "fiscal year 1983", the words "or 1984"; and by inserting in the last line of paragraph (b)(2), after the words "fiscal year 1983", the words "or 1984".

5. Section 1626.6 is amended by inserting in paragraph (a), after the words "Pub. L. 97-377", the words "or Pub. L. 98-166" and by inserting the next to last line of paragraph (b)(1), after the words "Pub. L. 97-377", the words "or Pub. L. 98-166".

6. Section 1626.7 is amended by inserting in paragraph (a), after the words "Pub. L. 97-377", the words "or Pub. L. 98-166" and by inserting in paragraph (b), after the words "Pub. L. 97-377", the words "or Pub. L. 98-166".

Dated: January 4, 1984.

Alan R. Swendiman,

General Counsel.

[FR Doc. 84-442 Filed 1-6-84; 8:45 am]

BILLING CODE 6820-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 81-893]

Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry); Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: Order extends the deadline for comments and reply comments regarding a Further Notice of Proposed Rulemaking adopted by the Commission in Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry), CC Docket No. 81-893. The action taken in the Order is necessary to ensure that interested parties have sufficient time to analyze and comment upon other related actions recently taken by the Commission which may have a bearing upon this proceeding.

DATES: Comments regarding the Further Notice of Proposed Rulemaking are due January 30, 1984, and replies are due February 15, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Cimko, Jr., (202) 632-9342.

Order

In the matter of Procedures for Implementing The Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry); CC Docket No. 81-893, (12-6-83; 48 FR 54668).

Adopted: December 22, 1983.

Released: December 29, 1983.

By the Chief, Common Carrier Bureau.

1. We have before us a Motion for Extension of Time filed by Telocator Network of America with regard to the *Further Notice of Proposed Rulemaking* adopted by the Commission in this docket. *See Procedures for implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry),* CC Docket No. 81-893, Further Notice of Proposed Rulemaking, FCC 83-506 (released Nov. 7, 1983) (hereinafter *Further Notice*). The Commission provided in that action that comments would be due not later than December 29, 1983, and reply comments would be due not later than January 23, 1984.

Further Notice at para. 9. Telocator requests that the deadline for comments be extended to January 30, 1984, and the deadline for replies be extended to February 20, 1984.

2. On December 22, 1983, the Commission adopted a *Memorandum Opinion and Order on Reconsideration* in *Deregulation of Mobile Customer Premises Equipment,* CC Docket No. 83-372, permitting American Telephone and Telegraph Company to detariff and transfer embedded customer premises equipment used in mobile telephone service to AT&T Information Systems as of January 1, 1984. The Telocator motion, which was filed on December 14, 1983, anticipated Commission action on reconsideration in CC Docket No. 83-372 and argues that "[t]he nature and scope of the instant proceeding will be materially influenced by the Commission's decision on reconsideration * * *. [T]houghtful analysis of the issues raised by the [*Further Notice*] cannot usefully be pursued in advance of the Commission's decision on reconsideration * * *."

3. We agree with Telocator that parties in this proceeding need additional time to review the Commission's decision on reconsideration in CC Docket No. 83-372. A full examination of the issues by interested parties will aid the Commission in taking action with regard to the *Further Notice,* and it is important to ensure that parties have sufficient opportunity to present their views. We shall, therefore, grant the Telocator motion, but shall require that reply comments shall be due on February 15, 1984.

4. Accordingly, it is ordered, pursuant to §§ 0.91(h) and 0.291 of the Commission's Rules, That the Motion for Extension of Time is granted as modified herein.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84-404 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-1236; RM-4370]

TV Broadcast Station in Ventura, California; Order Extending Time for Filing Comments and Reply Comments.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment/reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in MM Docket No. 83-1236 concerning a proposal to assign UHF television Channel 41 to Ventura, California. Counsel for petitioner states that additional time will be needed to formulate a proper response.

DATE: Comments must be filed on or before February 9, 1984, and reply comments on or before February 24, 1984.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau (202) 634-6530.

Order Extending Time For Filing Comments and Reply Comments

In the matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Ventura, California); MM Docket No. 83-1236, RM-4370.

Adopted: December 23, 1983.

Released: January 3, 1984.

By the Chief, Policy and Rules Division.

1. On November 2, 1983, the Commission adopted a *Notice of Proposed Rule Making,* 48 FR 53721, published November 29, 1983, in the above proceeding. Comments and reply comments are currently due January 9, 1984, respectively.

2. On December 21, 1983, counsel for California Broadcasting Corporation filed a request seeking additional time in which to file comments to and including February 9, 1984. Counsel states that initially the Commission's files in the referenced docket were incomplete and because of the intervening holidays additional time is needed to prepare comments.

3. We are of the view that, under the circumstances recited, an extension of time is warranted. It appears that no other party to the proceeding would be prejudiced by a grant of the instant request, such request was timely filed and such extension will assure development of a sound and comprehensive record on which to base a decision herein.

4. Accordingly, it is ordered, That the date for filing comments and reply comments in MM Docket No. 83-1236 (RM-4370) is extended to and including February 9, 1984, and February 24, 1984, respectively.

5. This action is taken pursuant to the authority contained in §§ 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commision.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 84-405 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 84-1; FCC 84-4]

Compensation for Expenses Incurred in Mitigating the Effects of Cuban Interference to Services Rendered by AM Radio Stations in the United States

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: The FCC invites comments on regulations that would govern the administration of a program of compensation to U.S. radio broadcasters for expense incurred for equipment and engineering necessary to mitigate the effects of interference received from Cuban stations. The FCC is directed by the recently enacted Radio Broadcasting to Cuba Act to issue such regulations. The proposed regulations would establish the requirements for eligibility to compensation, provide for the methods to be used in calculating the field strength of interfering Cuban signals, and in showing that specified threshold levels of Cuban interference are received, designate the kinds and amounts of expenses for which compensation would be payable, and establish procedures for the administration of the program either by the FCC alone, by the FCC with industry participation, or by industry alone. Industry participation is encouraged.

DATES: Comments are due by January 20, 1984 and reply comments by February 7, 1984..

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Louis C. Stephens, Mass Media Bureau, (202) 632-7792.

List of Subjects in 47 CFR Part 73

Radio and television Broadcasting.

Notice of Proposed Rule Making

In the matter of Compensation for Expenses Incurred in Mitigating the Effects of Cuban Interference to Services Rendered by AM Radio Stations in the United States; MM Docket No. 84-1; FCC 84-4.

Adopted: January 4, 1984.

Released: January 6, 1984.

By the Commission.

I. Introduction

1. The Commission herein initiates the captioned rule making proceeding as required by section 7 of the Radio Broadcasting to Cuba Act, Pub. L. No. 98–111, 97 Stat. 749 (1983). Section 7(a) of the Act reflects the intent of Congress that the Secretary of State "seek prompt and full settlement of United States claims against the Government of Cuba arising from Cuban interference with broadcasting in the United States." Pending settlement of these claims, the Act states that "it is appropriate to provide some interim assistance to U.S. broadcasters who are adversely affected by Cuban radio interference and who seek to assert their right to measures to counteract the effects of such interference." Accordingly, section 7(b) provides for the making of payments by the United States Information Agency to U.S. licensees for expenses incurred in mitigating the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees.[1] Finally, section 7(c) provides that "the Federal Communications Commission shall issue such regulations and establish such procedures for carrying out this section as the Federal Communications Commission finds appropriate." Section 7 is set forth in full in Appendix A, hereto.

2. In order to implement the above-referenced program of compensation to U.S. licensees, it appears appropriate to establish standards in essentially three areas. The first standard would identify a threshold level of interference from Cuba to U.S. stations that would trigger eligibility for compensation. The second standard generally would specify the types of expenses incurred in mitigating the effects of such interference that would be compensable. The third standard would set forth the procedures to be followed by affected U.S. licensees to obtain compensation.

3. Some aspects of the compensation program clearly fall within the purview of the Commission's expertise and experience, such as issuance of Special Temporary Authorizations, and the definition and verification of interference. However, other aspects of the program present novel questions relating to monetary benefits. In this latter regard, our expertise in allocating, licensing and regulating the use of the electromagnetic spectrum provides us with little guidance to draw upon in structuring a benefits program.

4. In the discussing below, we have proposed certain procedures for administering the program after final rules are adopted that admittedly would require the Commission to play a substantial role in processing and evaluating individual applications for compensation, prior to their submission to USIA for payment. The total cost of Commission involvement in such day-to-day administration may well exceed two million dollars (2,000,000). In order to achieve greater efficiency and economy, it may be more desirable to adopt different procedures that contemplate a significant industry administrative role by, for example, an appropriate industry advisory group. The time constraints imposed by the legislation have precluded earlier discussions with industry experts regarding this matter. We therefore strongly desire comments from members of the broadcast industry and other interested parties on all aspects of this *Notice*. In particular, parties filing comments should not hesitate to recommend modification of any proposals discussed herein, or to set forth wholly new proposals.

II. Background

5. There is a long history of interference from Cuban stations to U.S. stations. Efforts so far have failed to achieve a resolution of this problem. Cuba technically remained a signatory to the North American Regional Broadcasting Agreement (NARBA) until November, 1981. However, in contravention of NARBA, Cuban stations caused increasing levels of interference to U.S. AM radio broadcasters during a period covering 10 to 13 years prior to 1981.[2] Moreover, Cuba withdrew from the 1981 Regional Administrative Radio Conference at Rio de Janeiro after the Conference refused to include certain AM assignment shifts proposed by the Cuban delegation in the new Region 2 (Western Hemisphere) AM radio broadcasting Plan. These shifts and other proposals made by the Cuban delegation would have caused additional, and in some cases severe, interference to U.S. stations. A study performed during 1982 by the National Association of Broadcasters concluded that over 200 AM broadcast stations in the United States would be subjected to objectionable interference if Cuba proceeded to install and operate stations corresponding to the assignments proposed by Cuba to the Rio Conference. NAB's study used domestic standards as the basis for calculation.

6. Monitoring performed since 1981 has revealed a growing and shifting pattern of Cuban interference. Attempts to negotiate solutions to these problems with Cuba so far have proved unsuccessful. Accordingly, the FCC has responded to the problem by issuing Special Temporary Authorizations to affected stations. These STAs permit stations to increase power and alter directional patterns in order to restore service to at least part of their normally protected interference-free areas lost to Cuban interference. The Radio Broadcasting to Cuba Act contemplates providing compensation to those licensees who must obtain STAs and incur expenses in order to mitigate the effects of such interference.

III. Discussion

A. Proposed Standards

7. *Interference Defined.* It appears appropriate to calculate interference in the manner prescribed for Western Hemisphere AM broadcasting stations in the Regional Agreement and Technical Annexes that form part of the Final Acts of the Regional Administrative Radio Conference, Rio de Janeiro, 1981. Accordingly, the skywave signal of a Cuban station would be treated as causing interference when its field strength is at a specified level with a time incidence of 50%, rather than the 10% incidence used in calculating domestic skywave interference. Comments are requested on this proposal.

8. *Threshold Level of Interference.* It appears that Congress intended the FCC to establish a threshold level of interference, below which no compensation would be provided. This is reflected, for example, in the section-by-section analysis placed in the Congressional Record by Representative Fascell when presenting S. 602 to the House of Representatives for its consideration and vote. That analysis states that "in issuing any regulations and establishing any procedures for carrying out this section [7], the FCC should establish criteria to evaluate the financial claims of affected licensees" and that such criteria may include "the duration, stability and extent of Cuban

[1] The text of section 7(b) is as follows: (b) Accordingly, the Agency shall make payments to the United States radio broadcasting station licensees upon their application for expenses which they have incurred before, on, or after the date of this Act in mitigating, pursuant to special temporary authority from the Federal Communications Commission, the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees. Such expenses shall be limited to the costs of equipment (replaced less depreciation) and associated technical and engineering costs.

[2] The terms of NARBA require signatories to provide written notice one year in advance of the date that they plan to dissociate themselves from the requirements of the agreement. Cuba provided such notification in November, 1980.

interference, including establishment of a threshold loss of service prior to any compensation recommendation", 129 Cong. Rec. H 7683 (daily ed. Sept. 29, 1983).

9. A threshold level of interference can most conveniently be applied in the form of a percentage of a station's interference-free service area within which objectionable interference is received from Cuba, or a percentage of a station's population that would receive interference-free service in the absence of Cuban interference. For administrative purposes, it is easier to determine a straight percentage amount of service area lost to interference. However, application of such a procedure would fail to take cognizance of the fact that the interference may occur in relatively unpopulated areas, such as the Everglades in the case of stations in the southern part of Florida. Moreover, such a procedure could lead to compensation being paid to licensees receiving interference in generally unpopulated areas at the expense of licensees receiving interference to highly populated areas. Given the limited funds available for compensation and the potential for interference to a number of stations, such a result appears to be undesirable. Therefore, we propose to adopt a threshold level of interference that represents a percentage of a station's population directly affected by Cuban interference. Specifically, we propose that a licensee would meet the threshold level of eligibility if it shows that ten percent (10%) or more of its station's normally served population has lost interference-free service as a result of Cuban interference. We invite comments as to whether "10%" is appropriate or whether the percentage should be higher or lower.

10. *Duration of Interference.* Interference from Cuba could manifest itself in a variety of ways. It could be continuous for a protracted period of time. It could occur one or two days a week for several months. It could occur daily, but only for limited periods of time. It also could occur for one or two days, or other brief periods, and never recur.

11. The legislative history discussed at paragraph 8, *supra,* recognizes these possibilities and notes that the Commission should establish criteria to determine when interference has been continuous enough to warrant compensation. Therefore, we propose that interference to a station exist at least fifty percent (50%) of the time for a period of sixty continuous days before a licensee would be eligible for compensation. Comments are invited on this proposal.

12. *Alternative Methods of Determining Eligibility for Compensation.* As we noted in paragraph 8–11, *supra,* the legislative history mentions establishing a threshold level of interference and standards for determining interference duration as preconditions to compensation. We therefore have framed our proposals accordingly. However, it is possible that other methods of determining preconditions for compensation consistant with the statute also may be workable without the need for the somewhat detailed showing required under our proposals. We specifically urge commenters to address themselves to any such alternative methods.

13. *Secondary Effects.* Consistent with the language of section 7 (b) of the Act, we propose to limit compensation to stations "directly affected" by Cuban interference. Thus, no compensation would be permitted absent a showing of direct Cuban interference to the broadcast transmission or reception of the station filing a claim pursuant to the statute.

14. *Compensable Costs.* Although section 7 (b) authorizes the making of payments to U.S. licensees for expenses incurred in mitigating the effects of interference from Cuba, such payments are expressly limited to "the costs of equipment . . . and associated technical and engineering costs." The principal costs a broadcaster would incur for this purpose would include the capital outlays for designing, engineering, acquiring, installing, constructing and testing equipment such as transmitters, and facilities such as antenna towers. These costs would be necessary to mitigate loss of service and to avoid creating objectionable interference to other U.S. stations or to the stations of other foreign countries that the United States has agreed to protect. We propose to treat all of the above-mentioned expenses as compensable under the Act. Comments are requested on this proposal.

15. *Non-Compensable Costs.* Section 7 (b) does not authorize compensation for such consequences of Cuban interference as the loss of advertising revenues. When H.R. 2453, the House version of S. 602, was before the House Subcommittee on Telecommunications, Consumer Protection and Finance, the Subcommittee amended the Bill by adding a provision for compensation for lost advertising revenues. However, this was eliminated later when H.R. 2453 came before the full Committee on Energy and Commerce. The Bill finally adopted by both the House of Representatives and the Senate was an amended form of S. 602. When that Bill was before the Senate Committee on Foreign Relations, the Committee rejected an amendment that would similarly have provided compensation for loss of advertising revenues.

16. Also, we do not interpret section 7(b) as authorizing compensation for the cost of land to accommodate towers required for directionalization of a station's signal.[3] Similarly, it does not appear that compensation was intended for legal fees incurred in the preparation of applications for STAs or for other legal work associated with section 7.

17. Finally, the amount of compensation for equipment is limited by the following language in section 7(b): "equipment (replaced less depreciation)". The quoted language is understood to refer to depreciation taken for income tax purposes on equipment that is replaced by the new facilities. Depreciation on equipment replaced would thus be an offset against a licensee's compensable amount. The rationale for excluding depreciation already taken is apparent. To the extent that a licensee has taken a depreciation tax allowance, it has received a financial benefit. To provide compensation for replaced equipment without deducting depreciation taken on the equipment replaced would result in the licensee obtaining a double benefit. Accordingly, we propose to subtract from the otherwise qualifying cost of new equipment, the amount of depreciation already taken for tax purposes on the equipment that it replaces.

18. In addition to the foregoing, we seek comment on whether or not additional limits should be placed on the amount of money that any one licensee would be provided. Such a limitation may be desirable in order to ensure that as much money as possible is available to as many affected licensees as possible. We could, for example, limit compensation to a maximum of $250,000 per licensee. Alternatively, or in conjunction with such a limit, we could specify that no more than fifty percent (50%) of a licensee's otherwise qualifying costs would be compensable.

B. Procedures

19. The proposals discussed in this section of the *Notice* concern procedures for the performance of two

[3] We believe, however, that the antenna towers themselves, along with the footings to support them, are compensable.

kinds of functions. First, procedures must be established to govern the gathering and analysis of data needed to establish the underlying factual basis on which the program of compensation under section 7 will be administered. Such data will provide constantly updated information concerning Cuban AM signal transmissions that is needed to ascertain the extent and the duration of interference to individual U.S. stations. Second, procedures must be devised for processing and evaluating applications by individual station licensees for compensation under section 7.[4]

20. The two functions noted in paragraph 18 could be performed in several ways: (1) By the FCC exclusively; (2) partly by the FCC and partly by a suitable industry body or group; or (3) altogether by an industry body or group. We favor as much participation by industry as possible consistent with the mandate of the statute. We welcome comments as to how best to maximize industry participation both in the gathering and analysis of data, and in the processing and evaluation of individual applications for compensation.

21. *Data Gathering and Analysis to Show Cuban Signal Strength.* In order to determine whether or not a radio station meets a threshold requirement such as Cuban interference to at least 10% of the population within the station's normally interference-free service area, it will be necessary to calculate the field strengths of the interfering signals within that service area. Such calculations should be based on the best available indications as to the antenna characteristics and the locations and powers at which interfering Cuban stations may be presumed to be operating. One method of establishing such locations and powers would involve locating the Cuban stations with direction-finding bearings and measuring and recording field strengths of the signals of Cuban stations at suitable locations as close to Cuba as practicable. We believe that such measurements should be taken, at least semi-monthly, on all 107 AM channels. The presumed locations and powers of Cuban stations would be derived from baseline studies of those measurements. Such studies would be reviewed and revised, as necessary, in light of changes indicated by subsequently recorded measurements. The results of those studies would be published. Station licensees would use them in calculating and showing compliance with the threshold requirement as to the minimum extent of interference that would qualify them for compensation under section 7. Comments are invited on this approach, as well as any variants or alternatives the parties may wish to propose. Also, parties should comment on how it may be possible for industry members to participate in signal monitoring, and in the design, conduct, and updating of baseline studies.

22. *Data Gathering and Analysis to Show the Duration of Cuban Interference.* It appears desirable that showings of the duration of Cuban interference be based on measurements of the field strength of the interfering signal taken within the service contours of the affected station. We propose that licensees seeking compensation under section 7 would proceed as follows in monitoring their assigned channels for Cuban interference, and would report the methods and equipment used in conformance with good engineering practice. When monitoring Cuban groundwave interference to the groundwave service of the U.S. station, the field strength measurements by the affected licensee would be taken within the interference area located by calculations derived from the above-mentioned baseline studies. When monitoring Cuban nighttime skywave interference, the licensee's measurements of Cuban signals would be taken at the transmitter of the affected station, except that Class I stations would take these measurements within the interference area.

23. In considering the question of how best to make the showing mentioned in paragraph 11, that the Cuban interference occurs at least half the time, we have endeavored to develop an approach based on a sampling method.[5] Specifically, measurements by a station licensee claiming interference time to its daytime operations would be taken once a day for sixty consecutive days. Thirty such measurements could be taken usefully on alternate days during the morning hours between two hours after local sunrise and noon, and thirty measurements on the intervening days during the afternoon hours between noon and two hours before local sunset. This would avoid the intermixture of Cuban interference with other interference that could possibly occur during the "critical hours."[6] Stations seeking compensation for interference to nighttime services would record measurements taken on all sixty days between two hours after local sunset and midnight. The foregoing methods illustrate one possible way to show compliance with any interference duration requirement that ultimately may be adopted. We will also consider other approaches or methods that parties may wish to propose.

24. *Processing and Evaluating Applications for Compensation.* As noted in paragraph 20, above, applications for compensation could be processed and evaluated by the Commission, by the Commission and industry jointly, or by the industry alone.[7] Under the first approach, station licensees seeking compensation under section 7 would file their applications with the Federal Communications Commission. Under the second approach, applications would be filed simultaneously with the Commission and the appropriate industry body. Under the third approach applications would be filed only with the industry body. Such applications could be filed simultaneously with or after the filing of applications for the STAs covering the proposed new or changed facilities, but not before the effective date of the regulations adopted pursuant to this Notice.

25. The Commission or industry body, as the case may be, would as promptly as possible notify the applicant of the amount of compensation that it considers to be allowable. An ultimate finding of the amount of compensation that is considered to be allowable under Section 7 and the implementing regulations would be deferred until after the STA has been issued, the construction has been completed, and the applicant has provided the required cost documentation. This ultimate finding would be notified to the applicant, and transmitted to the USIA in the form of a recommendation that the USIA provide compensation in such amount.

26. We welcome proposals as to how the industry representatives who may participate in the processing and evaluation of individual applications

[4] This *Notice* does not address the procedures that the USIA will employ in performing its statutory functions related to the disbursement of funds to licensees that are found to qualify for section 7 compensation.

[5] This method presumes that Cuban signals detected by the station have the interference level predicted in accordance with the procedures proposed in paragraph 21. Thus, the proposed regulation would not require analysis of the field strength measurements performed by the station to show the duration of Cuban interference nor require a precise measurement of field strength.

[6] Critical hours are defined as the first tow hours after local sunrise and the last two hours before local sunset.

[7] It should be noted that STA's will continue to be processed by the FCC pursuant to the requirements of the Communications Act of 1934, as amended, and existing FCC rules.

under the second and third approach discussed above might best be chosen. Comments are also invited as to whether industry representatives performing any of the general functions indicated above, or those charged with analyzing and evaluating individual applications would have to be organized as an industry advisory committee pursuant to the requirements of the Industry Advisory Committee Act.

27. *Priorities.* It appears to be desirable, in view of the limitations of funds that will be made available for the payment of compensation under section 7, to establish the sequence in which applicants qualify for compensation, on some basis such as the following:

First Priority. A first priority would be given to station licensees whose STAs to mitigate Cuban interference were issued prior to October 4, 1983 (the date of the enactment of the Radio Broadcasting to Cuba Act) and whose applications for compensation are filed before October 1, 1984 (the date section 7 enters into effect). Within this first group, priority would be accorded in the order in which such STAs were granted:

Second Priority. A second priority would be given to station licensees whose STAs to mitigate Cuban interference were issued on or after October 4, 1983 but before the effective date of the regulations adopted hereunder, and whose applications for compensation are filed before October 1, 1984. Within this second group, priority would be accorded in the order in which the applications for such STAs are filed;

Third Priority. A third priority would be given to applicants who do not come within the first or second priority groups. Within this third group, priority would be accorded in the order of this filing of applications for compensation. Comments are invited on the foregoing methods of establishing priorities and on any alternatives that the parties may wish to propose.

28. *Documentation Supporting Applications.* The proposed regulations would include the requirement that applicants for compensation under section 7 provide such documentation as the Commission may prescribe generally, or as the processor of the applications may request in individual cases, as evidence that the costs sought to be compensated have been reasonably and prudently incurred for purposes for which compensation is allowable under the Act and the implementing regulations. Comments are requested on the types of documentation that should be required.

29. Pursuant to procedures set out in § 1.415 of the Commission's Rules, interested parties may file comments on or before January 20, 1984 and reply comments on or before February 7, 1984. The statutory requirement that the regulations governing the compensation program under Section 7 of the Act be issued no later than 180 days after its enactment (i.e., by April 1, 1984) will preclude extensions of time for the filing of comments or reply comments. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information is placed in the public file and provided that the fact of the Commission's reliance on such information is noted n the Report and Order.

30. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All timely comments will be considered regardless of the number of copies submitted. In any event, all comments must contain reference to the appropriate docket number (MM Docket No. 84-1). All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 "M" Street, NW., Washington, D.C. 20554. For general information on how to file comments, please contact the FCC Consumer Assistance and Information Division at (202) 632-7000.

31. As required by Section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis ("IRFA") of the expected impact on small entities of the proposals advanced herein. The IFRA is set forth in Appendix "B". Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them a responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this *Notice*, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, as required by Section 603[a] of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 50 U.S.C. 601 *et seq.*, (1981).

32. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the time a Public Notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments and formal oral arguments) addressing the merits of a pending proceeding and containing matters not fully covered in any previously filed written comments for the proceeding. Any person who submits a written *ex parte* presentation must submit a copy of that presentation to the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, § 1.231 of the Commission's rules.

33. For further information regarding this proceeding, contact Louis C. Stephens, Mass Media Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Attachments: Appendices A and B.

Appendix A

Text of Section 7 of the Act

Section 7 of the Radio Broadcasting to Cuba Act, Pub. L. 98-111, 97 Stat. 749, (1983) provides as follows:

Sec. 7.(a) It is the intent of the Congress that the Secretary of State should seek prompt and full settlement of United States claims against the Government of Cuba arising from Cuban interference with broadcasting in the United States. Pending the settlement of these claims, it is appropriate to provide some interim assistance to the United States broadcasters who are adversely affected by Cuban radio interference and who seek to assert their right to measures to counteract the effects of such interference.

(b) Accordingly, the Agency may make payments to the United States radio broadcasting station licensees upon their application for expenses which they have incurred before, on, or after the date of this Act in mitigating, pursuant to special temporary authority from the Federal Communications Commission, the effects of activities by the Government of Cuba which directly interfere with the transmission or reception of broadcasts by these licensees. Such expenses shall be limited to the costs of equipment (replaced less depreciation) and associated technical and engineering costs.

(c) The Federal Communications Commission shall issue such regulations and establish such procedures for carrying out this section as the Federal Communications Commission finds appropriate. Such regulations shall be issued no later than one hundred and eighty days after enactment of this Act.

(d) There are authorized to be appropriated to the Agency [United States Information Agency], $5,000,000 for use in compensating United States radio broadcasting licensees pursuant to this section. Amounts appropriated under this section are authorized to be available until expended.

(e) Funds appropriated for implementation of this section shall be available for a period of no more than four years following the initial broadcast occurring as a result of programs described in this Act.

(f) It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problem.

(g) This section shall enter into effect on October 1, 1984.

Appendix B

Initial Regulatory Flexibility Analysis

I. *Reason for Action.* The issuance by the Federal Communications Commission of regulations that will govern the administration of the program of compensation to U.S. broadcasters for allowable expenses incurred in mitigating the effects of Cuban interference is mandated by section 7 of the Radio Broadcasting to Cuba Act, Pub. L. No. 98-110, 97 Stat. 749 (1983).

II. *Objectives.* To establish standards and procedures that will permit the efficient and economical administration of the above-referenced program of compensation.

III. *Legal Basis.* The Radio Broadcasting to Cuba Act, *supra*, and the Administrative Procedure Act.

IV. *Description, Potential Impact and Number of Small Entities Affected.* The

entities affected are undetermined numbers of AM broadcasters serving communities in the United States. The potential impact upon them is to make available financial assistance with capital expenditures incurred in order to increase station power or modify or install directional antenna systems that will enable them to restore service to all or part of their normal service areas in which the reception of their signals is interfered with by signals transmitted by Cuban stations. The number affected will depend upon unpredictable actions by the Cuban government in changing the frequency assignments and operating powers of Cuban AM stations.

V. *Recording, Record Keeping and Other Compliance Requirements.* Broadcasters seeking compensation under section 7 would be required, under the rule making proposal, to submit applications showing that the Cuban interference which they seek to mitigate affects at least 10% of the population within their normally interference-free service contours, that the interference occurs at least half of the time, and that the compensation sought covers allowable expenses that were reasonably incurred.

VI. *Federal Rules which Overlap, Duplicate or Conflict with this Rule.* None.

VII. *Any Significant Alternatives Minimizing Impact on Small Entities and Consistent with the Stated Objectives.* None other than the alternative methods and procedures advanced in the *Notice.*

[FR Doc. 84-545 Filed 1-6-84; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 83-28; FCC 83-584]

Establishment of a Class of Amateur Operator License Not Requiring a Demonstration of Proficiency in the International Morse Code; Withdrawal of Proposed Rule

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rules; Report and Order.

SUMMARY: This document withdraws two alternative sets of proposed rules set forth in a *Notice of Proposed Rule Making,* 48 FR 4855 (February 3, 1983). These rules would have established an amateur radio operator license class which an individual could have obtained without first demonstrating a proficiency in the international Morse code. These rules are being withdrawn because: (1) The requirement for Morse code proficiency is not a significant barrier for those who want to get an amateur operator license; and (2) it is in the public interest to maintain a skilled pool of amateur operators for the safety of life and property and public emergencies and for the national defense.

FOR FURTHER INFORMATION CONTACT: John Borkowski, Private Radio Bureau, Washington, D.C. 20554 (202) 632-4964.

Report and Order

In the matter of establishment of a class of amateur Operator License not requiring a demonstration of proficiency in the International Morse Code; PR Docket No. 83-28.

Adopted: December 14, 1983.
Released: December 23, 1983.
By the Commission.

Introduction

1. In the *Notice of Proposed Rule Making,* 48 FR 4855 (February 3, 1983) in this proceeding, we proposed to establish an amateur radio operator license which an individual could obtain without first demonstrating a proficiency in the international Morse code. The proposal was intended to attract intelligent, disciplined persons to the Amateur Radio Service who could make a valuable contribution to the service without such a proficiency. It sought to remove any barrier the code requirement might place in the path of computer-oriented or handicapped individuals otherwise qualified to be amateur operators but for the code requirement.

2. The *Notice* proposed establishment of one of two kinds of "codeless" operator license classes. One proposal was to eliminate the five word-per-minute Morse code examination element (Element 1(A)) from the existing Technician class operator licensing requirements, with all authorized amateur privileges above 50 MHz. The alternative proposal involved creation of an entirely new license class with qualifications akin to those for the Canadian Digital Amateur Class Certificate.

Background

3. The issue of a codeless amateur operator license has been addressed in past Commission proceedings. In a *Notice of Proposed Rule Making* in Docket No. 20282, 39 FR 44042 (December 20, 1974), we noted that the Morse code requirement might be a significant barrier to Amateur Radio Service (ARS) entry. In a *Notice of Inquiry* in General Docket No. 78-250, 43 FR 37729 (August 24, 1978), we considered, among other possible improvements in administering Morse code examinations to handicapped applicants, creating a new class of amateur operator license without a Morse code proficiency requirement and with eligibility restricted to handicapped applicants. In the *Third Report and Order* in Docket No. 20282, 44 FR 16460 (March 19, 1979), we stated we would like to get fresh comments on the issue and would initiate a new proceeding to do so. The *Report and Order* terminating General Docket No. 78-250, 47 FR 14197 (April 2, 1982), also discussed the possibility of a class of amateur radio operator license without telegraphy requirements.

Comments

4. Almost 5,000 comments and reply comments were received.[1] The comments were overwhelmingly opposed to the establishment of any class of amateur operator license not requiring a demonstration of proficiency in the international Morse code. There were approximately twenty comments opposed to a codeless operator class for every comment in favor of such a class.[2]

5. Comments and reply comments in favor of some form of amateur license not requiring proficiency in the international Morse code included those of the Amateur Radio Research and Development Corporation (AMRAD), the Amecom Amateur Radio Club, the Capitol Hill Amateur Radio Society (CHARS), the Centralia Wireless Association, the Emerson Electric Amateur Radio Club (Emerson), the Garden State Amateur Radio Association, the Northern Illinois DX Association, the Okaw Valley Amateur Radio Club, the Southern Michigan Amateur Radio Team, the Sterling Park Amateur Radio Club, the Tennessee Council of Amateur Radio Clubs and the Willamette Valley DX Club.

6. Comments and reply comments opposed to any form of amateur license not requiring proficiency in the international Morse code included those

[1] The motion of the Capitol Hill Amateur Radio Society (CHARS) to accept its late-filed (August 1, 1983) reply comments is granted. The motion of the American Radio Relay League, Inc. (ARRL) for leave to submit supplemental reply comments on CHARS' late-filed reply comments is also granted.

[2] Many comments, such as those of Donald L. Stoner, which included "a proposal for the creation of a computer hobbyist license class," were alternative suggestions for the type of codeless license to be adopted should we decide to proceed with some sort of codeless license. We are treating these as comments on the proposal rather than as separate petitions for rule making. In view of the result reached herein, we would entertain future proposals for allocating spectrum separate and apart from amateur radio frequencies for a new computer hobbyist radio service.

of the Amateur Radio Association of the Tonawandas, Amateur Radio Post 380 (American Legion, Department of California), the Amateur Radio Transmitting Society of Louisville, the American Radio Relay League, Inc. (ARRL), the Athens Amateur Radio Club, the Bay Area Two-Twenty Group, the Bell Amateur Radio Club, the Beloit Amateur Radio Club, Inc., the Bemidji Amateur Radio Club, the Black Diamond Amateur Radio Club, the Brandon Amateur Radio Society, the Buffalo Amateur Radio Repeater Association, the Butte Amateur Radio Club, the Capeway Amateur Radio Club of Massachusetts, the Central Carolina Amateur Radio Society, the Cleveland Wireless Association, the Concord Brasspounders Amateur Radio Club, the East Bay Amateur Radio Club, the Eastern Shore Amateur Radio Club, the Elmore County Amateur Radio Club, the Emporia Amateur Radio Society, the Estero Amateur Radio Club, the Everglades Chapter of the Quarter Century Wireless Association (QCWA), the Fairfield Amateur Radio Association, the Falmouth Amateur Radio Association, Inc., the Findlay Radio Club, the Flathead Valley Amateur Radio Club, the Grande Ronde Radio Amateurs, the Great Circle Shortwave Society, the Greater Milwaukee DX Association, the Greater Toledo Amateur Radio Association, the Green Fox Amateur Radio Club, the Grumman Amateur Radio Club, Hancock Emergency Amateur Radio Services, Inc., the Hendricks County Ham Club, the Hoodview Amateur Radio Club, the Houston Echo Society, the Idaho Society of Radio Amateurs (Magic Valley Chapter), the Inter-City Amateur Radio Club, the Irwin Area Amateur Radio Association, the ITT Gilfillan Amateur Radio Club, the Jackson Amateur Radio Club, Inc., the Jefferson Amateur Radio Club, the Kettle Moraine Radio Amateur Club, the Lac Qui Parle Amateur Radio Club, the Lebanon Valley Society of Amateur Radio Club, the Liverpool Amateur Repeater Club, the McHenry County Wireless Association, the McMinnville Amateur Radio Club, the Madison Amateur Radio Club, the Metropolitan Amateur Radio Club, the Metuchen Amateur Radio Club, the Mid-Oklahoma Repeator, Inc., the Mike and Key Radio Club, the Milton Academy Amateur Radio Club, the Milwaukee Radio Amateur's Club, Inc., the Milwaukee School of Engineering Amateur Radio Club, the Monongalia Wireless Association, the Murray State University Amateur Radio Club, the Nashua Area Radio Club, Inc., NBS-Brass, the North Alta Loma Repeater Club, the Northrup Radio Club, the Old Post Amateur Society, Inc., the Old Pueblo Radio Club, Inc., the Ole Virginia Ham Amateur Radio Club, the Owensboro Amateur Radio Club, the Pentagon Amateur Radio Club, the Pentucket Radio Association, Inc., Pike Amateur Radio Emergency Services, the Port City Amateur Radio Club, the Portage Amateur Radio Club, the Potomac Valley Radio Club, QCWA, the Radio Amateur Teletypists Society of Minneapolis, the Radio Club of Tacoma, Inc., the Rock River Radio Club, the St. Barnabas Amateur Radio Club, the St. Cloud Amateur Radio Club, the St. Lawrence Valley Repeater Association, the San Antonio Repeater Organization, the Santa Rosa Amateur Radio Association, the Schenectady Amateur Radio Association, Inc., the Sharon Amateur Radio Association, the Shiawassee Amateur Radio Association, the Sierra Nevada Amateur Radio Society, Inc., the Sioux Falls Amateur Radio Club, Inc., Sonoma County Radio Amateurs, Inc., the South Georgia Amateur Radio Club, the South Texas Amateur Radio Society, Inc., the South Texas Amateur Repeater Club, Inc., the South Towns Amateur Radio Society, the Southeastern DX Club, the Southern California 220 Spectrum Management Association, the Southern California Repeater and Remote Base Association (SCRRBA), the Southern Oregon Amateur Radio Club, the Steubenville-Weirton Amateur Radio Club, the Story County Amateur Radio Club, the Suburban Amateur Repeater Association, Inc., the Texas DX Society, the Texas VHF-FM Society, the Thibodaux Amateur Radio Club, the Thumb Amateur Radio Club, the University of Minnesota Amateur Radio Club, the Valley Amateur Radio Association, the Valley of the Moon Amateur Radio Club, the Viking Amateur Radio Society, the West Valley Amateur Radio Association, the Western Piedmont Amateur Radio Club, the Wood County Amateur Radio Club, the Worthington Amateur Radio Club and the York Radio Club.[3]

Summary of Decision

7. For the reasons set forth in the discussion below, we have determined that it would not be in the public interest, convenience or necessity for the Commission to establish a class of amateur operator license not requiring a demonstration of proficiency in the international Morse code.[4] We reach this determination on the basis that: (1) A five word-per-minute (wpm) code requirement does not constitute a significant ARS entry barrier; (2) knowledge of the Morse code continues to be relevant to everyday usage in the ARS; and (3) a Morse code requirement for every license class is important to maintaining the traditional public service role of the ARS in emergencies involving public safety and the national defense.

Discussion

I. Morse code as an entry barrier.

A. *The general public.* 8. We received many comments from persons who indicated that the Morse code was a barrier for them in joining the ARS. For instance:

> I am not a licensed amateur radio operator. I have a technicians degree from the Cleveland Institute of Electronics and a Batchelor of Science degree in Electrical Engineering from the University of Tennessee. I know that I can pass the technical exams for amateur licensing. At this time the Morse code is the major obstacle between me and my amateur license. Comments of John D. Triplett.

Some commenters alleged personal learning barriers. Others indicated that they cannot find the time to learn the code.

9. To the extent a "code barrier" exists, it appears to be an attitudinal one. M. Hoshiko, faculty advisor and trustee of the Southern Illinois University Amateur Radio Club, said that very few electronics students are willing to study the code to become hams. The unwillingness to study Morse code may reflect a perception that it is an outmoded form of communication. Edward Novak commented that most individuals who will not study the code are refusing to submit to what they perceive as an obsolete "ritual" requirement that they feel will have no application for them beyond gaining them their ham licenses. (See paragraphs 24–28, *infra.*)

10. Sometimes, a lack of willingness to study Morse code appears to be related to fear of its difficulty. One Morse code instructor stated that he has ". . . observed an initial apprehension of learing the international Morse code which usually accompanies the thought of learning something like an abstract

[3] Donald B. Nowakoski's Petition to Cancel or, in the alternative, Amend is denied as an invalid petition under § 1.773 of the Commission's Rules (this is not a petition for suspension or rejection of a new tariff filing). However, this petition will be treated as a comment in opposition to the proposed rule making.

[4] As a result of this determination, we do not reach the question of which type of "codeless" license would be most appropriate.

foreign language." Comments of Gary L. Crown.

11. Those who do study Morse code appear to have few problems with the five wpm requirement. Instructors of code and theory commenting in this proceeding agreed that anyone can, with study, establish Morse code 5 wpm proficiency. Several instructors told us that no successful electronics students in their classes who really wanted an amateur license had failed to learn and pass the code test.

12. Significantly, instructors of code and theory also agreed that younger students have little or no difficulty in mastering Morse code. John B. Mollan stated that younger students have difficulty with the "theory" rather than the code requirements. John C. Hallyburton, Sr. indicated that he has experienced no difficulty in training both Cub and Boy Scouts in Morse code. And Francis J. D'Auria said that his average student learns the code with fifteen hours of study and practice, and some youngsters learn the code in eight to ten hours.[5] Melvin C. Vye, an associate professor of electronic technology at the University of Akron, indicated that young people with an interest in computers—one of the groups targeted as a basis for the *Notice* in this proceeding—have the least problem of any group in mastering Morse code.

13. Many commenters hastened to point out that a Morse code requirement cannot be much of a barrier to ARS entry, because ". . . (s)everal hundred thousand licensed Amateurs have learned Morse code and successfully passed code examinations in order to achieve a license." Comments of Richard A. Stiern. Martin D. Shapiro correctly pointed out in his comments that over the past 50 years the number of licensed amateur operators has increased from 30,000 to in excess of 400,000, or roughly 1300%.

14. In disputing the *Notice's* reliance upon a 1971 study referred to in Docket No. 20282, the Pentucket Radio Association, Inc. stated that from 1976 to 1980 the number of ARS licensees grew by 35%, adding over 100,000 persons to the Service. The Radio Operators Association of New Bedford pointed to the growth in numbers of Licensed Amateurs between 1973 and 1980 of nearly 200% Novice, 27% Technician, 30% General, 38% Advanced and 100% Amateur Extra Class licensees as evidence that Morse code requirements are not deterring ARS expansion.

15. The most recent Commission statistics showed continued increase in the number of amateur operators in fiscal year (FY) 1983. In FY 1983, the total number of amateur operators grew to 410,767 for a net gain of 4,339 operators (20,940 new operators balanced against a loss of 16,601 operators). We conclude that the Amateur Radio Service is a healthy, growing service which has attracted large numbers of new licensees over the past decade. Its growth is continuing. The Morse code requirement does not appear to have critically affected the entry of new licensees into the Amateur Radio Service.

16. We conclude that a five wpm requirement for proficiency in the international Morse code is not an unreasonable burden upon license applicants. Members of the general public, particularly younger students with developing interests in electronic technology, radio and computers, are capable of learning the international Morse code at a proficiency of five wpm without undue difficulty. We conclude that to the extent a Morse code requirement acts as a bar to ARS entry for some, it is a necessary trade-off for the present nature of the Amateur Radio Service.

B. *Computer interests and the ARS.* 17. Bash Educational Services, Inc. (Bash) expressed the view that the implementation of a codeless Technician Class license would not greatly increase the ranks of amateur radio operators but would enhance the Service with the input from the more technically oriented youth in the United States. On the other hand, the Emerson Electric Amateur Radio Club (Emerson) acknowledged the affinity between home or personal (hobby) computing and amateur radio, as evidenced by packet radio, AMTOR, microprocessor RTTY, keyboard keyers, and code readers. But Emerson stated that the development of a body of pseudo-communicators who are little more than "appliance operators" would not be a sigificant step in merging the two interests.

18. Some commenters, such as William M. Pasternak (Pasternak), executive producer of Westlink Radio News, felt that while amateur radio and computer interests may overlap, most young computer users have no interest in amateur radio. Instead they pursue information retrieval and exchange through the use of modems interconnected with the public switched telephone network to access commercial computer networking organizations such as "The Source" and "Compunet."

19. After reviewing the comments, we conclude, as the ARRL stated, that:

> . . . there is no evidence that younger, school-aged individuals whose primary interest is in computer technology will be attracted to amateur radio through the medium of such a license . . . . an interest in computer operation by no means connotes an interest in radio communications.

C. *Handicapped applicants.* 20. The vast majority of comments opposed implementation of a codeless license on the basis of a need to accommodate handicapped applicants. The only comments favoring any sort of special codeless license for the handicapped were the comments of some who, while generally opposed to a codeless license, acknowledged that they did not want to bar entry to the ARS on the basis of a person's handicap.

21. Comments from handicapped people themselves and from people who assist them in learning code and theory in order to successfully complete amateur operator examinations strongly opposed a codeless license for the handicapped. The Pentucket Radio Association, Inc. pointed out that in responding to PR Docket No. 78-250, handicapped Amateurs were not asking for a special license or elimination of requirements but instead sought acknowledgement of an individual's handicap and permission to use special techniques so that they may take the same examination as everyone else. Reo DePew expressed the view of a majority of handicapped amateurs when he stated that a "no-code" license would be unfair to them and rob them of some of their pride of accomplishment.

22. Perhaps the most telling and persuasive comments of all on this subject are those of the Courage HANDI-HAM System, an international non-profit service organization which provides amateur radio educational services, equipment and fraternity to people with physical, sight, speech and/or hearing handicaps. They stated:

> We must strenuously object to the argument that people with physical handicaps are prevented from being able to successfully complete a Morse code examination. Extensive experience in training over 5,000 severely handicapped people proves otherwise. In only six cases over the past 16 years have we encountered a situation where a *physical* (as opposed to mental) disability has absolutely prevented an individual from learning the code at the prescribed speeds! The Courage HANDI-HAM System has developed learning methods and transcription techniques which

[5] Daniel and Claire Rosenbaum referred to the Department of the Army Technical Manual TM 11-459 and the Department of the Air Force Technical Order TO 31-3-16, entitled *International Morse Code (Instructions).* According to this joint publication an average person can learn to send and receive Morse code with 15-22 hours of study, - based on sending and receiving proficiencies tested at one continuous mistake-free minute.

bring the International Morse code well within the abilities of severely handicaped persons.

Of perhaps even greater significance is the reason WHY so many severely handicapped Radio Amateurs put forth tremendous effort to learn the code at speeds which permit fast and reliable on-the-air communications: for many, the Morse code is the ONLY means of communications available to them. You must realize that the very person who is so severely handicapped that he has a great deal of difficulty transcribing the code is precisely the person who, by reason of severe speech involvement with his physical handicap, NEEDS the code to communicate. Comments of the Courage HANDI-HAN System.

23. We conclude that physical disability, in other than extremely rare and exceptional circumstances, does not prevent handicapped persons from learning the Morse code and successfully completing Morse code examinations. We have made every effort to accommodate the handicapped in commission—administered amateur operator examinations. We have promulgated rules to assure that the handicapped will be similarly accommodated under the new amateur volunteer examiner program. *See e.g.* 47 CFR 97.26(g). Generally, the handicapped go to extraordinary lengths and are extremely resourceful in designing methods to achieve code proficiency. Handicapped applicants are justifiably proud when they master the Morse code. They wish to be treated as co-equals in the Amateur Radio Service; not as a special group needing a special license. Thus, considerations for handicapped applicants do not appear to warrant creation of a codeless license.

II. Relevance of Morse Code

24. Comments supporting the proposals in the *Notice* claimed that knowledge of the international Morse code is irrelevant in today's ARS. In its Reply Comments, CHARS stated that it is not even necessary to have any Morse code skills to utilize the code because inexpensive home computers interconnected with radio transmitters and receivers are generally capable of transmitting and receiving Morse code at speeds between 1 and 99 words per minute. Harold A. Wilson commented that with current technology almost all communication above 50 MHz on the amateur bands is FM. David A. Miller stated that at the Technician level "99% of UHF and VHF communication is voice communication."

25. The comments on this subject are conflicting, with a large preponderance of comments of the opposite view. Alfred G. Conte, Jr., stated that the proposal for a codeless license equates with a proposal to do away with the instruction of arithmetic in elementary schools due to the prevalence of inexpensive pocket calculators. Many commenters, like Charles E. Daum, pointed to the survey conducted by Florida State University's Institute for Social Research, cited in the *Notice*, in which 83% of the amateur operators responding said that a Morse code requirement is either essential or important for operator privileges below 30 MHz, and 64% said that such a requirement is essential or important for operator privileges above 30 MHz.

26. Emil Pocock commented that Morse code has many applications today above 50 MHz. He said that it is used for weak-signal communications, which is an important and widely pursued art in the VHF and UHF bands. Edgar Herbert Callaway, Jr., further explained that such weak signal work included:

> . . . the use of low-noise transistors, power amplifiers, high gain antennas, stable narrow-band receivers, etc. . . . The first amateur EME (moonbounce) contact was made using Morse code. Also the first meteor-scatter contacts on 144, 220, and 432 MHz. The pioneering California-to-Hawaii 144 and 220 MHz contacts by W6NLZ and KH6UK (2540 miles, discovering truly long-haul tropospheric ducting in the tropics) were made via Morse code. . . . Most of these contributions to the amateur radio service and the radio art in general were made by operators with ability, yes, state-of-the-art equipment, yes, but they all *required* Morse code. The contemporary equipment did not allow for the extra 3- to 10-dB of signal strength needed for another mode. There would have been no breakthroughs without Morse. Comments of Edgar Herbert Callaway, Jr.

27. There is also much evidence that Morse code is used frequently above 144 MHz. Matthew V. Ellsworth commented that it is often used in the two-meter and 440 MHz bands for communications with earth-orbiting satellites. He also stated that most automatic repeating stations identify by using a code generating device. Geoffrey H. Krauss said that even recent VHF contests reflect substantial Morse code usage. Richard A. Stiern commented that the Morse Code is still used extensively by the Armed Forces and the Merchant Marine because of its reliability under any circumstances. Joseph M. Rice stated in his comment that 99% of the present OSCAR satellite work is done using Morse code.

28. We conclude that Morse code still occupies a significant place in day-to-day amateur operation, particularly in the HF bands. The Morse code is used normally on VHF and UHF frequencies in conjunction with weak signal communications. The Morse code is relied upon heavily for experimentation and the development of new technological advances. The Morse code, rather than being irrelevant or obsolete, continues to be an integral part of amateur radio.

III. Use of Morse Code in Civil Emergencies and for National Defense

29. In extensive comments, Donald Godward set forth the basic philosophy of those commenters who believe that Morse code is no longer needed for amateur responsiveness in civil or military emergencies. He stated that the advent of all solid state SSB transceivers, VHF-FM gear, and RTTY equipment has essentially eliminated the need for CW in emergency operations. He said that modern SSB/FM/RTTY equipment is so small and light that it is highly portable and its power requirements are so compatible with modern batteries and portable power generators that there is no longer any real advantage to CW in emergency operations, even in terms of being able to "get through." The Mississippi Emergency Management Agency said that modern digital techniques are preferable to code for getting a message through. CHARS stated that most emergency communications in fact utilize voice, either sideband or FM.

30. However, most individuals and groups involved in amateur emergency communications urged retention of a code requirement for all amateur operator licenses. Many amateur operators brought our attention to specific instances of emergency communications that were possible only with the use of Morse code, such as this year's tornado and floods in Southeast Missouri, life threatening emergencies at sea handled by the Maritime Mobile Service Net, the rescue of the crew of the *Jala Morari*, and the rescue of the crew of a sinking ship in the Straits of Juan de Fuca. Al Uvietta, Communications Support Group Coordinator for the City of San Antonio, Office of Emergency Management, and Hancock Emergency Amateur Radio Services, Inc., a group of about twenty-five amateur operators banded together by the need for emergency communications during tornadoes, floods and other disasters, commented that Morse code is more effective in getting through when communications are affected by weather, poor propagation and interference. Most commenters still view Morse code as the communications mode of last resort for the worst conditions. See, e.g.,

Comments of Ralph V. Anderson; Comments of James W. Partin.

31. Many commenters, including the Southern California Repeater and Remote Base Association (SCRRBA), were concerned that the anticipated growth of the ARS if we adopt a codeless license would adversely impact already-crowded repeater operation in large urban areas, with resultant detrimental effect upon emergency communications capability. The Story County Amateur Radio Club pointed out that a Morse code requirement for every amateur operator license assures maintenance of a pool of skilled amateur operators available to provide communications for the public in emergencies.

32. Several years ago, the U.S. military services "de-emphasized" the use of Morse code as a modern communications tool. Now there is a major push in the U.S. military services to re-train their radio operators in the proficient use of Morse code. In the Air Force, for example, all ground radio operators must be proficient at five words per minute before March 1, 1984. They have two years to reach ten words per minute and three years to reach 15 wpm. See the Comments of Gen. Kremin. Henry M. Wymbs, an Army Signal School graduate and former member of the Second Signal Service Battalion in World War II commented that amateurs having a knowledge of the international Morse code have always formed a trained cadre of communicators upon which the military has always depended.

33. A letter to the ARRL from Mr. Oscar A. Goldfarb, acting Deputy Assistant Secretary for Logistics and Communications, U.S. Air Force, stated that "(s)hould the Commission adopt the 'No-Code' proposal, we would establish a requirement for Morse code proficiency as a condition for becoming an Air Force MARS member." See the Reply Comments of the American Radio Relay League. The Central Intelligence Agency (CIA), in a full-page advertisement for Electronic Technicians, Communicators and Radio Operators published in the June 1983 issue of Signal Magazine and appended to the comments of Philip B. Petersen stated that "Morse code ability at 12 gpm [wpm] is preferred; other applicants will be tested for Morse aptitude."

34. We conclude that a proficiency in the international Morse code is still very useful for amateur responsiveness in civil and military emergencies. In such emergencies, it is the principal communications mode of last resort in the face of uncertain propagation characteristics or severe interference. Due to international language barriers, it is sometimes the only effective communications mode. It is in the public interest, convenience and necessity to maintain a pool of skilled amateur operators available to provide emergency communications for the public during disasters and for the national defense. Continuance of a requirement for proficiency in the international Morse code will contribute to continued maintenance of such a pool. Clearly, Morse code is a fundamental communications skill critical to the nature of the ARS.[6]

35. *Foreign Codeless Experience.* Many commenters, including Edward C. Simmons, stated that Canada has very few codeless class licensees because of a much more difficult examination than we proposed for either alternative U.S. codeless class license. On the other hand, a large number of commenters attributed the substantial growth of Japan's amateur radio service (from 70,000 licensees in 1965 to over 1,000,000 licenses in 1982) directly to Japan's easy-to-get codeless class license.[7] Our proposals fell somewhere between Canada's and Japan's codeless licenses. Neither country's experience appears directly applicable.

36. *Impact of a Codeless License Upon ARS Compliance.* Many comments opposing the proposal feared that a codeless amateur operator license would really be no more than another Citizens Band Radio Service, with what they perceived to be all its attendant problems. The Ozaukee Radio Club and the Inter-County Amateur Radio Club expressed concern that the amateur radio spectrum not be abused, as in Citizens Band. Pasternak commented that investigations by him and his news service reveal that such a license will initially be looked upon as an extension of Citizens Band Radio, to be mass marketed to the general public in a way similar to the way Citizens Band Radio was in the 1970's.

37. Coupled with this fear is a belief held by many commenters that rule compliance and dedication to public service in the ARS is a function of the time and effort a person must expend in obtaining a license. See, e.g., Comments of H. T. Hunt; Comments of the American Radio Relay League, Inc. The Honorable Lee H. Hamilton, U.S. House of Representatives, stated that the praiseworthy performance of ham operators during emergencies and their dedication to radio demonstrates a level of discipline which may be damaged by any relaxation of standards.

38. A contrary minority view, expressed in the comments of Frederick J. Glenn, is that the present written examination requires a sufficient demonstrated effort at learning. Corwin D. Moore expressed sentiments similar to those of Charles E. Cohn, who stated:

> Code lovers threaten us with CB-type chaos and insanity if the code requirement is dropped or loosened. The flaw in that argument can be readily seen if you note that a good many of the hams that have been disciplined for malicious interference have been Extra Class licensees, and thus have demonstrated code mastery, not just at 13 wpm, but at 20 wpm! Comments of Charles E. Cohn.

39. Nonetheless, the majority of commenters anticipated a large influx of undisciplined licensees as a result of either proposal in the *Notice.* The Pentagon Amateur Radio Club and others said that "weak signal" experimenters, such as those engaged in experimenting with extended range terrestrial modes of VHF/UHF communications and those involved in earth-moon-earth (EME) or "moonbounce" modes, and amateurs using satellites as relay platforms are justifiably concerned that a larger and potentially less well disciplined population of amateurs may not respect the up-to-now voluntarily imposed frequency management procedures necessary for these experiments to be conducted.

40. We are not persuaded that there is a relationship between the time and effort expended to successfully complete Element 1(A) (the Morse code 5 wpm examination) and the rule compliance or dedication to public service of a particular applicant. We believe it is not possible to predict reliably the behavior of prospective codeless licensees. Accordingly, we do not find this issue significant to our resolution of this proceeding.

Conclusion

41. The five word-per-minute slow speed Morse code requirement for the present entry-level Novice and Technician class licenses in the ARS does not appear to constitute a significant function barrier to potential

[6] In the Marine Radio Service we have granted an exemption from radiotelegraph requirements to large cargo vessels operating on U.S. coastwise voyages where such vessels carry an array of alternative communications equipment including a satellite ship earth station. *Report and Order,* PR Docket No. 79-336 (FCC 82-75), February 14, 1982. ARS operators, on the other hand, generally provide emergency assistance to people in situations where other methods of communication are not available.

[7] Emerson commented that 85% of the Japanese amateur operators hold Telephony class (codeless) licenses. They also commented that one-third of England's amateur operators and 40% of Germany's amateur operators hold codeless licenses.

applicants. The amateur ranks are growing by thousands of licensees every year with the code requirement in effect. To the extent the Morse code requirement poses a barrier for a few, we are willing to accept that "trade-off" in light of the very substantial benefits it produces both for licensees and the public.

42. The five word-per-minute Morse code requirement poses no unacceptable burden for handicapped applicants. Ingenious devices, alternative methods of examination administration, and the laudable dedication and perseverance of handicapped applicants in combination usually result in successfully completion of the Morse code examination. Licensees in the ARS who are handicapped are proud of their achievement in mastering Morse code, and generally do not seek special treatment.

43. There is still substantial everyday use of the Morse code in the ARS. The international Morse code is essential to many aspects of technical advance and experimentation in the ARS today. It is a fundamental communications skill critical to the nature of the ARS.

44. A requirement for proficiency in the international Morse code is necessary in order to insure maintenance of a trained pool of amateur operators for emergencies involving the safety of life or property or for the national defense. Dropping this requirement for an entry-level license would adversely affect amateur emergency communications capabilities, which would adversely affect the public.

45. It is unusual to receive the volume of comments we have received in this proceeding. Almost five thousand people and organizations responded to the *Notice.* They were mostly people licensed in the ARS who use their privileges on a regular basis. They were people who, by a margin of roughly twenty to one, expressed an overwhelming sentiment to maintain the current nature and makeup of the service. They felt that Morse code is an integral feature of the ARS. These commenters are the people who have made the ARS what it is today—a service that is a model of public responsiveness in times of emergency and distress, and a service that is a model of self-enforcement and volunteerism. The strong sentiment they expressed in this docket about the nature of such a service is a critical factor in weighing the proposals.

46. For all the above reasons, we have decided to reject each of the proposals set forth in the *Notice* and to retain the present licensing structure of the Amateur Radio Service.

Procedural Matters

47. In the *Notice of Proposed Rule Making, supra,* in this proceeding, we previously determined that Sections 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to this rule making proceeding since this proposal would only have amended the operator-license class structure of the Amateur Radio Service. There would have been no significant impact on small businesses, small organizations or small governmental jurisdictions. Of course, since we are terminating this proceeding without action, there is no impact at all.

48. It is further ordered that the Petition to Cancel or, in the alternative, Amend filed by Donald B. Nowakoski is denied.

49. It is further ordered that the Motion for Leave to File Reply Comments filed by the Capitol Hill Amateur Radio Society is granted.

50. It is further ordered that the Motion for Leave to Submit Supplemental Reply Comments filed by the American Radio Relay League, Inc., is granted.

51. It is further ordered that this proceeding is terminated.

52. It is further ordered that the Secretary shall cause a copy of this *Report and Order* to be served upon the Chief Counsel for Advocacy of the Small Business Administration and that the Secretary shall also cause a copy of this *Report and Order* to be published in the Federal Register.

53. For further information on this proceeding, contact John J. Borkowski, Federal Communications Commission, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 84-334 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 49, No. 5
Monday, January 9, 1984

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has rescheduled its January 10, 1984, meeting. In accordance with Section II.A.4. of the ATBCB's Statement of Organization and Procedures, this meeting will take place on Friday, February 10, 1984, from 1:00 pm to 5:00 pm, in the Main Hall of the Disabled American Veterans (DAV) National Service and Legislative Headquarters, 807 Maine Avenue SW., Washington, D.C. 20024.

DATE: February 10, 1984,—1:00 pm–5:00 pm.

ADDRESS: Main Hall, Disabled American Veterans (DAV) National Service and Legislative Headquarters, 807 Maine Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD).

Committee meetings of the ATBCB will be held on Thursday, February 9 and Friday morning, February 10, in the Hubert Humphrey Building. Contact Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD), for further information.

Wm. Bradford Reynolds,
Chairperson.

[FR Doc. 84-462 Filed 1-6-84; 8:45 am]
BILLING CODE 6320-01-M

CIVIL AERONAUTICS BOARD

[Order 83-12-107]

Fitness Determination; Pichel Air Service, Inc.; Order To Show Cause; Erratum

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of December, 1983.

Due to flooding conditions in the Office of the Secretary, this order was not served on the calculated date; therefore, the dates in ordering paragraph 2 on page 4 (48 FR 57146; December 23, 1983) should be January 18, 1984 for objections and January 30, 1984 for answers.

Dated: December 23, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-462 Filed 1-6-84; 8:45 am]
BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended December 23, 1983

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Dec. 19, 1983	41732	Armstrong Air Service, Inc., c/o Hank Myers & Company, P O Box 734*, Bellevue, Washington 98009. Amended Application of Armstrong Air Service, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point Dillingham and the terminal point New Stuyahok, Alaska. Answers may be filed by January 16, 1984.
Dec. 22, 1983	41804	Challenge Air Transport, Inc., c/o Emory N. Ellis, Fulbright & Jaworski, 1150 Connecticut Avenue NW., Washington, D.C. 20036. Application of Challenge Air Transport, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to issue it a certificate of public convenience and necessity so as to authorize it to engage in overseas and interstate scheduled air transportation of persons, property and mail and for worldwide charter passenger authority Conforming Applications, Motions to Modify Scope and Answers may be filed by January 19, 1984.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 84-462 Filed 01-03-84; 8:45 am]
BILLING CODE 6320-01-M

[Order 83-12-147, Docket 41919]

Applications of Airmark Corporation for Certificate Authority

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order Instituting the *Airmark Corporation Fitness Investigation*, 83-12-147, Docket 41919.

SUMMARY: The Board is instituting an investigation to determine the fitness of Airmark Corporation to engage in interstate and overseas and foreign charter air transportation of persons, property, and mail.

DATE: Persons wishing to intervene and/or proposing to request additional evidence in the *Airmark Corporation Fitness Investigation* shall file their petitions in Docket 41919 by January 16, 1984.

ADDRESS: Requests for additional evidence and petitions to intervene should be filed in Docket 41919 and addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Joseph W. Bolognesi, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. (202) 673-5333.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-12-147 is available from our Distribution Section, Room 100, 1825 Connecticut Ave. NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-12-147 to that address.

By the Bureau of Domestic Aviation: December 30, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-463 Filed 1-6-84; 8:45 am]

BILLING CODE 6320-01-M

[Order 83-12-140]

Fitness Determination of Chitina Air Service

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Essential Air Service Carrier Fitness Determination—Order 83-12-140 Order to Show Cause.

SUMMARY: The Board is proposing to find that Chitina Air Service is fit, willing, and able to provide reliable essential air service at designated points in Alaska under section 419(c)(2) of the Federal Aviation Act, as amended; and that the aircraft used in this service conform to the applicable safety standards. The complete text of this order is available as noted below.

DATES: Responses: All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed below no later than January 24, 1984, together with a summary of the testimony, statistical data, and other material relied upon to support the allegations.

ADDRESSES: Responses or additional data should be filed with the Essential Air Services Division I, Room 918, Civil Aeronautics Board, Washington, D.C. 20428, and with all persons listed in Appendix D of the order.

FOR FURTHER INFORMATION CONTACT: Arthur Barnes, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-5343.

SUPPLEMENTARY INFORMATION: The complete text of Order 83-12-140 is available from the Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 83-12-140 to Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: December 30, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 84-464 Filed 1-6-84; 8:45 am]

BILLING CODE 6320-01-M

[Docket 41864]

United States-Venezuela All-Cargo Proceeding, Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter will be held on January 20, 1984 at 9:30 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., January 3, 1984.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 84-461 Filed 1-6-84; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Wholesale Trade; Determination

In accordance with Title 13, United States Code, Sections 182, 224, and 225, and due Notice of Consideration having been published December 2, 1983 (48 FR 54388), I have determined that data covering year-end inventories and annual sales are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data also are applicable to a variety of public and business needs. This annual survey is a continuation of similar surveys conducted each year since 1978. It provides, on a comparable classification basis, annual sales for 1983, year-end inventories for 1982 and 1983, and purchases for 1983. These data are not available publicly on a timely basis from nongovernmental or other governmental sources.

The Bureau will require a selected sample of firms operating merchant wholesale establishments in the United States (with sales size determining the probability of selection) to report in the 1983 Annual Wholesale Trade Survey. The sample will provide, with measurable reliability, statistics on the subjects specified above.

We will furnish report forms to the firms covered by this survey and will require their submission within 20 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: December 21, 1983.

C L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 84-471 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-07-M

Service Annual Survey; Determination

In accordance with Title 13, United States Code, Sections 182, 224, and 225, and due Notice of Consideration having been published December 2, 1983 (48 FR 54388), I have determined that data covering 1983 operating receipts of selected service industries are needed to provide a sound statistical basis for the formation of policy by various governmental agencies and that these data also are applicable to a variety of public and business needs. This survey will provide data on annual operating receipts and sales taxes for 1983 for selected service industries. These data are not available publicly from nongovernmental or other governmental sources on a continuing basis.

The Bureau will require a selected sample of firms operating service establishments in the United States (with receipts size determining the probability of selection) to report in the 1983 Service Annual Survey. The sample

will provide, with measurable reliability, statistics on the subjects specified above.

We will furnish report forms to the firms covered by this survey and will require their submission within 15 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

I have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: December 20, 1983.

C. L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 84-470 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

NBS; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 83-110. Applicant: NBS, Washington, D.C. 20234. Instrument: Fourier Transform Spectrophotometer System, Model DA3.002I with Accessories. Manufacturer: Bomem, Inc., Canada. Intended use: See notice at 48 FR 53589.

Comments: None received.

Decision: Approved. No instrument system or apparatus of equivalent scientific value to the foreign system, for such purposes as this system is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument system provides, *inter alia,* a resolution of 0.0020 cm $^{-1}$ or better in the infrared at wavelengths of 2000 nanometers or greater and full wavelength coverage from 200 nanometers in the ultraviolet to 1 millimeter in the far infrared. The National Institutes of Health advises in its memorandum dated June 24, 1983 that (1) the capabilities of the foreign system described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic system or apparatus of equivalent scientific value to the foreign system for the applicant's intended use.

The Department of Commerce knows of no other instrument system or apparatus of equivalent scientific value of the foreign system, for such purposes as this system is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 84-443 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

National Bureau of Standards' Visiting Committee; Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the National Bureau of Standards' Visiting Committee will meet on Tuesday, January 31, 1984, from 8:00 a.m. to 5:15 p.m. in Lecture Room 1107, Radio Building, National Bureau of Standards, 325 Broadway, Boulder, Colorado 80303.

The NBS Visiting committee is composed of five members prominent in the fields of science and technology and appointed by the Secretary of Commerce.

The purpose of the meeting is to review the efficiency of the Bureau's scientific work and the condition of its equipment in order to assist the Committee in reporting to the Secretary of Commerce as required by law.

The public is invited to attend, and the Chairman will entertain comments or questions at an appropriate time during the meeting.

Any person wishing to attend the meeting should inform Mrs. Carolyn A. Goodfellow, Office of the Director, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-2226.

Dated: January 3, 1984.

Ernest Ambler,

Director.

[FR Doc. 84-445 Filed 1-6-84; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the total number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Department of Defense, Federal Acquisition Regulation Supplement

The DoD issues approximately 13 million contractual actions annually. Information Collection from the Public in support of the DoD Acquisition Process is necessary for the Government to evaluate contract(s) and supplier(s) approach to support contractual actions for services, supplies and hardware in conformance with the requirements of the Armed Services Procurement Act Title 10, U.S.C.

Contractors: 13,000,000 responses; 187,940 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and John V. Wenderoth, DoD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301, telephone (202) 694-0187.

A copy of the information collection proposal may be obtained from Fred J. Kohout, OUSDRE(AM)DARS, Room RE840, 400 Army-Navy Drive, Washington, D.C. 20301, telephone: (202) 697-7267.

Dated: January 4, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84-443 Filed 1-6-84; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board.

Date of Meeting: February 3, 1984.

Time: 0300-1600.

Place: Lecture Hall Room Number 2.030, University of Texas Health Science Center, San Antonio, Texas.

Proposed Agenda: Microassay of malaria sporozoites in mosquitoes, results of Doxycycline prophylaxis in leptospirosis—compliance and side effect study, Mayo Clinic—Army Preventive Medicine follow-up regarding swine influenza, military application regarding coccidioidomycosis, Air Force Medical Service experience with acquired immunodeficiency syndrome, Navy Medical Service experience in meningococcal typing in recruits, asbestos review material at the Armed Forces Institute of Pathology, United States Navy Asbestos Medical Surveillance Program, preventive medicine activities in Grenada, and respective military preventive medicine officer reports.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455, Pentagon, Washington, DC 20310; (202) 695–9115.

Dated: December 28, 1983.

Robert F. Nikolewski,

Col, USAF, BSC; Executive Secretary.

[FR Doc. 84–449 Filed 1–6–84; 8:45 am]

BILLING CODE 3710–08–M

Armed Forced Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board Subcommittee on Disease Control.

Date of Meeting: February 2, 1984.

Time: 0830–1200.

Place: Lecture Hall Room Number 2.030, University of Texas Health Science Center, San Antonio, Texas.

Proposed Agenda: Review of future availability of smallpox vaccine for military personnel; rubella immunization for Army medical and dental personnel; 1984–1985 influenza immunization program.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455, Pentagon, Washington, DC 20310; (202) 695–9115.

Dated: December 28, 1983.

Robert F. Nikolewski,

Col, USAF, BSC; Executive Secretary.

[FR Doc. 84–450 Filed 1–6–84; 8:45 am]

BILLING CODE 3710–08–M

Armed Forces Epidemiological Board; Open Meeting

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463) announcement is made of the following committee meeting:

Name of Committee: Armed Forces Epidemiological Board Subcommittees on Environmental Quality and Health Maintenance.

Date of Meeting: February 2, 1984.

Time: 1300–1600.

Place: Lecture Hall Room Number 2.030, University of Texas Health Science Center, San Antonio, Texas.

Proposed Agenda: Review of the Navy Asbestos Medical Surveillance Program Data Analysis.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG–AFEB, Room 2D455, Pentagon, Washington, DC 20310; (202) 695–9115.

Dated: December 28, 1983.

Robert F. Nikolewski,

Col, USAF, BSC, Executive Secretary.

[FR Doc. 84–451 Filed 1–6–84; 8:45 am]

BILLING CODE 3710–08–M

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C Chapter 35). Each entry contains the following: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Contractor's Request for ADPS Output

It is DOD and Air Force policy to provide contractors and Defense manufacturers, having a valid need, raw data tapes from Air Force data systems as established in AFR 65–110 and AFMs 66–1 and 400–1 subject to considerations of security, proprietary agreements and fair competition. AFSC/AFLC Regulation 178–6 requires use of AFLC/AFSC Form 13 as the contractor's request for such raw data tapes.

All contractors and manufacturers, including small businesses, who request raw data tapes for product improvement: 40 responses, 20 hours.

Forward comments to Edward Springer, OMB Desk Officer, Room 3235, NEOB Washington, DC 20503, and John V. Wenderoth, DOD Clearance Officer, WHS/DIOR, Room 1–C–535, Pentagon, Washington, DC 20301, telephone 202/694–0187

A copy of the information collection proposal may be obtained from Mrs Betty Fitzgerald, HQ AFSC/ACX, Andrews AFB, DC 20334, telephone 301/981–5961.

Dated: January 4, 1984.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 84–444 Filed 1–6–84; 8:45 am]

BILLING CODE 3910–01–M

Department of the Navy

Determination to Construct a Replacement Naval Hospital in the Base Coastal Flood Plain at Naval Base Philadelphia, Pennsylvania

I. Background

The Naval Medical Command is proposing to construct a new 144-bed hospital to replace the existing naval hospital located in South Philadelphia, Pennsylvania. A site selection survey was conducted for six sites; one within the existing hospital compound and five sites on the Naval Base Philadelphia. All five sites on the naval base are within the 500 year flood plain.

A Preliminary Environmental Assessment was prepared for the proposed project. The assessment concluded that the preferred location for the new hospital was on the Naval Base Philadelphia and that the construction/operation of the hospital will not pose "significant effect on the quality of the human environment."

II. Alternatives Evaluated in the Preliminary Environmental Assessment

A. No action.

B. Renovation of existing facilities.

C. Alternative site locations.

III. Statement of Conformity to State and Local Flood Plain Protection Standards

It has been determined that the proposed action is consistent with the State of Pennsylvania's Coastal Zone Management Plan to the maximum extent practicable.

IV. Reasons Action is Proposed to be Located in Flood Plain

A. Military Readiness and Cost

The major advantage to be realized from construction of a new hospital will be a more efficient organization of functional relationships, and therefore, a more effective use of staff. A new facility will also provide an improved capability for efficient expansion in the future. This translates directly into a savings in dollars and manpower. Finally, the cost of a new facility is estimated to be approximately eight million dollars less than the estimated cost of rehabilitation of the existing facility.

B. Security

Proximity of the proposed facility within the existing naval installation will assure proper security is maintained.

C. General

Consideration of economic, environmental and operational factors led to selection of one of five sites on the main base—all of which are within the 500 year flood plain. The preferred site is approximately 4 feet below the 500 year flood elevation, but above the 100 year flood elevation. This action is therefore subject to the provisions and requirements of Executive Order 11988, the stated objective of which is to reduce the risk of flood loss and to minimize the impact of floods on human safety, health and welfare.

V. Determination

Based on the Preliminary Environmental Assessment and for the reasons cited above, the Department of the Navy has determined that location of the proposed replacement naval hospital in the base coastal flood plain is the only practicable alternative to the Navy.

Dated: January 4, 1983.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 84-439 Filed 1-6-84; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

[PON No. DE-PNO4-84AL25034]

Availability of Program Opportunity Notice for Small Community Solar Experiments

AGENCY: Department of Energy (DOE), Albuquerque Operations Office.

ACTION: Availability of Program Opportunity Notice (PON) for Small Community Solar Experiments [PON No. DE-PNO4-84AL25034]

SUMMARY: DOE intends to issue an unrestricted PON which will solicit proposals for the development of technologies for low-cost, long-life solar thermal systems for electrical power generation applications using focus point collectors and Brayton, Stirling, and/or Organic Rankine Cycle heat engines mounted at the collector focal point. Issuance is planned for January 1984.

Authority: DOE Organization Act, Pub. L. 95-91, 42 U.S.C. 7101; Federal Non-nuclear Energy Research and Development Act of 1974, Pub. L. 93-577, 42, U.S.C. 5901 *et seq.*; DOE Financial Assistance Regulations, 10 CFR Part 600, Subparts A and C.

This activity is part of the Solar Thermal Power System Program for Parabolic Dish systems to demonstrate technology for parabolic dish-heat engine electric power generation modules for small utility markets. The objectives of the program are: (1) To verify a parabolic dish solar thermal electrical power generating module system using existing Brayton, Stirling or Organic Rankine Cycle heat engines technology; and (2) to design, construct and operate experimental multi-module solar thermal electrical power generating plants using verified modules at locations in Osage City, Kansas, and on the island of Molokai, Hawaii. Each plant will have a rated electrical power output of at least 100 KWe.

Pursuant to the DOE Assistance Regulations (10 CFR Part 600), DOE anticipates awarding a Cooperative Agreement for each project location subject to the availability of funds. The participants are expected to contribute financially to the effort which is expected to commence in mid-1984 and be completed in 1987. DOE's maximum contribution for each project location is $4,000,000. It is requested that all interested parties provide written notification of their interest in receiving a copy of the PON to the below listed point of contact not later than twenty (20) days from the date of publication of this notice. Telephone inquiries will not be accepted.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Albuquerque Operations Office, Contracts and Industrial Relations Division, ATTN: O. W. Wehlander, P.O. Box 5400, Albuquerque, NM 87115.

Issued in Washington, D.C., on December 28, 1983.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

[FR Doc. 84-433 Filed 1-6-84; 8:45 am]

BILLING CODE 6450-01-M

Office of Civilian Radioactive Waste Management; Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Advisory Panel on Alternative Means of Financing and Managing (AMFM) Radioactive Waste Facilities.

Date and Time: January 24, 1984, 9:00 a.m.–5:00 p.m.; January 25, 1984, 9:00 a.m.–1:00 p.m.

Place: U.S. Department of Energy, Forrestal Building, Room 1E-245, 1000 Independence Avenue SW., Washington, D.C. 20585.

Contact: Howard Perry, U.S. Department of Energy, Office of Civilian Radioactive Waste Management, 1000 Independence Avenue SW., Washington, D.C. 20585, Telephone: 202/252-5316.

Purpose of the Panel

To study and report to the Department of Energy on alternative approaches to managing the construction and operation of civilian radioactive waste facilities, pursuant to Section 303 of the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425). The panel's report will include a thorough and objective analysis of the advantages and disadvantages of each alternative approach.

Tentative Agenda

January 24, 1984:

- Committee Charter
- Nuclear Waste Policy Act
- Program Status
- Industry and State Perspectives
- Committee Priorities and Products
- Public Comment (10 minute rule).

January 25,1984:

- Committee schedule and Assignments
- Staff Support Needs
- Budget
- Public Comment (10 minute rule).

Public Participation

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Howard Perry at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

The transcript of the meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 8:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on January 4, 1984.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

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Economic Regulatory Administration

[Docket No. ERA-R-79-43B]

Electric and Gas Utilities Covered in 1984 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Titles II and VII of the National Energy Conservation Policy Act of 1978 and Requirements for State Regulatory Authorities To Notify the Department of Energy

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: Sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) and section 211(b) of the National Energy Conservation Policy Act (NECPA) require the Secretary of Energy to publish a list before the beginning of each calendar year, identifying each electric utility and gas utility to which Titles I and III of PURPA and Titles II and VII of NECPA apply during such calendar year. The 1984 list is published here as two separate tabulations. Appendix A lists the covered utilities by State, and Appendix B lists them alphabetically.

Each State regulatory authority is required, pursuant to sections 102(c) and 301(d) of PURPA and section 211(b) of NECPA, to notify the Secretary of Energy of each electric utility and gas utility on the list for which such State regulatory authority has ratemaking authority. In addition, written comments are requested on the accuracy of the list of electric utilities and gas utilities.

DATE: Notifications by State regulatory authorities and written comments must be received by no later than 4:30 p.m. on February 14, 1984.

ADDRESS: Notifications and written comments should be forwarded to: Department of Energy, Coal and Electricity Division, 1000 Independence Avenue, S.W. (Room GA–033), Docket No. ERA–R–79–43B, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Coal and Electricity Division, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, S.W., Room GA–033, Washington, D.C. 20585, 202/252–1657.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*), and section 211(b) of the National Energy Conservation Policy Act (NECPA), Pub. L. 95–619, 92 Stat. 3206 *et seq.*, (42 U.S.C. 8211 *et seq.*) hereinafter referred to as the "Acts," the Department of Energy (DOE) is required to publish a list of utilities to which Titles I and III of PURPA and Titles II and VII of NECPA apply in 1984.

State regulatory authorities are required by the above cited Acts to notify the Secretary of Energy as to their ratemaking authority over the listed utilities. The inclusion or exclusion of any utility on or from the list does not affect the legal obligations of such utility or the responsible authority under the Acts.

The term "State regulatory authority" means any State, including the District of Columbia and Puerto Rico, or a political subdivision thereof, and any agency or instrumentality, either of which has authority to fix, modify, approve, or disapprove rates with respect to the sale of electric energy or natural gas by any utility (other than such State agency) and in the case of a utility for which the Tennessee Valley Authority (TVA) has ratemaking authority, the term "State regulatory authority" means the TVA.

Title I of PURPA sets forth ratemaking and regulatory policy standards with respect to electric utilities. Section 102(c) requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each electric utility to which Title I applies during such calendar year. An electric utility is defined as any person, State agency or Federal agency which sells electric energy. An electric utility is covered by Title I for any calendar year if it had total sales of electric energy for purposes other than resale in excess of 500 million kilowatt-hours during any calendar year beginning after December 31,1975, and before the immediately preceding calendar year. An electric utility is covered in 1984 if it exceeded the threshold in 1976, 1977, 1978, 1979, 1980, 1981, or 1982.

Title III of PURPA addresses ratemaking and other regulatory policy standards with respect to natural gas utilities. Section 301(d) of Title III requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each gas utility to which Title III applies during such calendar year. A gas utility is defined as any person, State agency or Federal agency, engaged in the local distribution of natural gas and the sale of natural gas to any ultimate consumer of natural gas. A gas utility is covered by Title III if it had total sales of natural gas for purposes other than resale in excess of 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. A gas utility is covered in 1984 if it exceeded the threshold in 1976, 1977, 1978, 1979, 1980, 1981, or 1982.

Title II, Part 1, of NECPA, addresses residential conservation programs, and Title VII of NECPA, enacted as part of the Energy Security Act, Pub. L. 96–294, 94 Stat. 611 *et seq.* (42 U.S.C. 8701 *et seq.*), addresses commercial building and multifamily dwelling conservation programs. Section 211(b) contains a requirement, similar to that of PURPA, that the Secretary of Energy publish a list of electric and gas utilities to which Titles II and VII apply. The NECPA requirements for coverage of electric utilities and gas utilities differ from the PURPA requirements in only three respects:

(1) The threshold for electric utilities is 750 million kilowatt-hours for purposes other than resale;

(2) a utility is covered for any calendar year if it exceeded the threshold during the second preceding

calendar year. A utility is covered in 1984 if it exceeded the threshold in 1982; and

(3) only utilities which have residential sales are covered by Title II and only utilities which have sales to commercial buildings or multifamily dwellings are covered by Title VII.

In compiling the list published today, DOE revised the 1983 list (48 FR 1653, January 13, 1983), upon the assumption that all entities included on the 1983 list are properly included on the 1984 list unless DOE has information to the contrary. In doing this, DOE took into account information which was received from the Rural Electrification Agency, or included in public documents, regarding entities which exceeded the PURPA and NECPA thresholds for the first time in 1982. DOE believes that it will become aware of any errors or omissions in the list published today by means of the comment process called for by this notice. DOE will, after consideration of any comment and other information available to DOE, provide written notice of any further additions or deletions to the list.

II. Notification and Comment Procedures

No later than 4:30 p.m. on February 14, 1984, each State regulatory authority must notify the Department of Energy in writing of each utility on the list over which it has ratemaking authority. Fifteen copies of such notification should be submitted to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA-R-79-43B." Such notification should include:

1. A complete list of electric utilities and gas utilities over which the State regulatory authority has ratemaking authority;
2. legal citations pertaining to the ratemaking authority of the State regulatory authority; and
3. for any listed utility known to be subject to other ratemaking authorities within the State for portions of its service area, a precise description of the portion to which such notification applies.

All interested persons, including State regulatory authorities, are invited to comment in writing, no later than 4:30 p.m. on February 14, 1984, on any errors or omissions with respect to the list. Five copies of such comments should be sent to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA-R-79-43B." Written comments should include the commenter's name, address and telephone number.

All notifications and comments received by DOE will be available for public inspection in the ERA Reading Room, Room 1E-190, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

III. List of Electric Utilities and Gas Utilities

DOE is publishing in Appendix A and Appendix B, two different tabulations of the list of utilities which meet both PURPA and NECPA coverage requirements. In both appendices, the listed utilities not covered by NECPA are noted. As stated above, the inclusion or exclusion of any utility on or from the lists does not affect its legal obligations or those of the responsible State regulatory authority under PURPA and NECPA.

Appendix A is a tabulation of utilities which separately identifies, by State, and each State regulatory authority, the covered utilities it regulates, and other covered utilities in the State which are not regulated by the State regulatory authority. This tabulation, including explanatory notes, is based on information provided to DOE by State regulatory authorities in response to the January 13, 1983 Federal Register Notice (48 FR 1653) requiring each State regulatory authority to notify DOE of each utility on the list over which it has ratemaking authority, comments received with respect to that notice, and information subsequently available to DOE.

The utilities classified in Appendix A as not regulated by the state regulatory authority may in fact be regulated by local municipal authorities. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority. Therefore, each such municipality is to notify DOE of each utility on the list over which it has ratemaking authority.

In Appendix B, the utilities are listed alphabetically, subdivided into electric utilities and gas utilities, and further subdivided by type of ownership: investor-owned utilities, publicly-owned utilities, and rural cooperatives.

The changes to the 1983 list of electric and gas utilities are as follows:

Additions:

*Alabama-Tennessee Natural Gas Company
Battle Creek Gas Company
Concord Natural Gas Corporation
Corning Natural Gas Corporation
*Guadalupe Valley Electric Cooperative
Midwest Natural Gas Corporation
Northwest Alabama Gas Dist.
*Sam Houston Electric Cooperative

Deletions:

Citizens Utilities Company
Kokomo Gas and Fuel Company

Modifications:

Change—Alaska Gas and Service Company to—Enstar Natural Gas Company
Change—Central Kansas Power Company to—Midwest Energy Incorporated (merger)
Change—Community Public Service Company to—Trans New Mexico Power Company
Change—Hartford Electric Light Company to—Connecticut Light and Power Company (merger)
Change—Pioneer Natural Gas Company to—Energas Company

Asterisk (*) Removed:

Carolina Pipeline Company (NC)
Moon Lake Electric Association (UT)
Pedernales Electric Cooperative (TX)
Tri-County Electric Association (WY)

Erroneously Listed in 1933 List:

Blue Ridge Electric Membership Corporation
Fort Pierce Utility Authority
Maine Public Service Company
Trans Louisiana Gas Company
Vero Beach Municipal Authority

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, (42 U.S.C. 8211 *et seq.*))

Issued in Washington, D.C. on December 23, 1983.

Robert L. Davies,

Director, Coal and Electricity Division, Economic Regulatory Administration

Appendix A

All gas utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977, 1978, 1979, 1980, 1981 or 1982. All except those marked (*) are covered by PURPA Title III and NECPA Titles II and VII. Utilities marked (*) are not covered by NECPA Titles II and VII because they either do not exceed the NECPA threshold of 10 billion cubic feet in 1982 for purposes other than resale, or do not have residential or commercial sales.

All electric utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours in 1976, 1977, 1978, 1979, 1980, 1981 or 1982. All, except those marked (*) are covered by PURPA Title I and NECPA Titles II and VII. Utilities marked (*) are not covered by NECPA Titles II and VII because they either do not exceed the NECPA threshold of 750 million kilowatt-hours in 1982 for purposes other than resale, or do not have residential or commercial sales.

State: Alabama

Regulatory Authority: Alabama Public Service Commission.

Gas Utilities

Investor-Owned:
Alabama Gas Corporation
*Alabama-Tennessee Natural Gas Company
Mobile Gas Service Corporation
Northwest Alabama Gas Dist.

Electric Utilities

Investor-Owned:
Alabama Power Company:
The following covered utilities within the State of Alabama are not regulated by the Alabama Public Service Commission:

Electric Utilities

Publicly-Owned:
Decatur Electric Department
*Dothan Electric Department
*Florence Electricity Department
Huntsville Electric System
Rural Electric Cooperatives:
*Rural Electric System

State: Alaska

Regulatory Authority: Alaska Public Utilities Commission.

Gas Utilities

Investor-Owned:
Enstar Natural Gas Company

Electric Utilities

Rural Electric Cooperatives:
Chugach Electric Association
Publicly-Owned:
Anchorage Municipal Light & Power Department

State: Arizona

Regulatory Authority: Arizona Corporation Commission.

Gas Utilities

Investor-Owened:
Arizona Public Service Company
Southern Union Gas Company
Southwest Gas Corporation

Electric Utilities

Investor-Owned:
Arizona Public Service Company
Tucson Electric Power Company
The following covered utilities within the State of Arizona are not regulated by the Arizona Corporation Commission:

Electric Utilities

Publicly-Owned:
Salt River Project Agricultural Improvement and Power District
*Trico Electric Cooperative, Inc.

State: Arkansas

Regulatory Authority: Arkansas Public Service Commission.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Arkansas Western Gas Company
Associated Natural Gas Company

Electric Utilities

Investor-Owned:
Arkansas-Missouri Power Company
Arkansas Power and Light Company
Empire District Electric Company
Oklahoma Gas and Electric Company
Southwestern Electric and Power Company
Rural Electric Cooperatives:
*First Electric Cooperative Corporation
The following covered utility within the State of Arkansas is not regulated by the Arkansas Public Service Commission:
Publicly-Owned:
*North Little Rock Electric Department

State: California

Regulatory Authority: California Public Utilities Commission.

Gas Utilities

Investor-Owned:
Pacific Gas and Electric Company
San Diego Gas and Electric Company
Southern California Gas Company
Southwest Gas Corporation

Electric Utilities

Investor-Owned:
Pacific Gas and Electric Company
Pacific Power and Light Company
San Diego Gas and Electric Company
Sierra Pacific Power Company
Southern California Edison Company
The following covered utilities within the State of California are not regulated by the California Public Utilities Commission.

Electric Utilities

Publicly-Owned:
Anaheim Public Utilities Department
Burbank Public Service Department
*Glendale Public Service Department
Imperial Irrigation District
Los Angeles Department of Water and Power
Modesto Irrigation District
Palo Alto Electric Utility
Pasadena Water and Power Department
Riverside Public Utilities
Sacramento Municipal Utility District
Santa Clara Electric Department
*Turlock Irrigation District
Vernon Municipal Light Department

Gas Utilities

Publicly-Owned:
Long Beach Gas Department

State: Colorado

Regulatory Authority: Colorado Public Utilities Commission.

Gas Utilities

Investor-Owned:
Greeley Gas Company
Iowa Electric Light and Power Company
Kansas-Nebraska Natural Gas Company
Peoples Natural Gas Company, Division of Internorth, Inc.
Public Service Company of Colorado
Publicy-Owned:
Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)

Electric Utilities

Investor-Owned:
Public Service Company of Colorado Western Power Division of Centel
Publicly-Owned:
Colorado Springs Department of Public Utilities (jurisdiction only outside city limits)

The following covered utilities within the State of Colorado are not regulated by the Colorado Public Utilities Commission:

Gas Utilities

Publicly-Owned:
Colorado Springs Department of Public Utilities (within city limits)

Electric Utilities

Publicy-Owned:
Colorado Springs Department of Public Utilities (within city limits)

State: Connecticut

Regulatory Authority: Connecticut Division of Public Utility Control

Gas Utilities

Investor-Owned:
Connecticut Light and Power Company
Connecticut Natural Gas Corporation
Northest Utilities
Southern Connecticut Gas Company

Electric Utilities

Investor-Owned:
Citizens Utilities Company
Connecticut Light and Power Company
United Illuminating Company
Publicly-Owned:
*Groton Public Utilities

State: Delaware

Regulatory Authority: Delaware Public Service Commission.

Gas Utilities

Investor-Owned:
Delmarva Power and Light Company

Electric Utilities

Investor-Owned:
Delmarva Power and Light Company

State: District of Columbia

Regulatory Authority: Public Service Commission of the District of Columbia.

Gas Utilities

Investor-Owned:
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Potomac Electric Power Company

State: Florida

Regulatory Authority: Florida Public Service Commission.

Gas Utilities

Investor-Owned:
City Gas Company of Florida
Peoples Gas System

Electric Utilities

Investor-Owned:
Florida Power Corporation
Florida Power and Light Company
Gulf Power Company

Tampa Electric Company
Publicly-Owned: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
Gainesville Regional Utilities
Jacksonville Electric Authority
Lakeland Department of Electricity and Water
*Ocala Utilities
Orlando Utilities Commission
Tallahassee, City of
Rural Electric Cooperatives: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—
Clay Electric Cooperative
Lee County Electric Cooperative
Withlacoochee River Electric Cooperative

State: Georgia

Regulatory Authority: Georgia Public Service Commission.

Gas Utilities

Investor-Owned:
Atlanta Gas Light Company
Chattanooga Gas Company
Gas Light Company of Columbus

Electric Utilities

Investor-Owned:
Georgia Power Company
Savannah Electric and Power Company

The following utilities within the State of Georgia are not regulated by the Georgia Public Service Commission.

Electric Utilities

Publicly-Owned:
*Albany Water, Gas & Light Commission
*Dalton Water, Light & Sink
Rural Electric Cooperatives:
*Cobb Electric Membership Corporation
*Flint Electric Membership Corporation
*Jackson Electric Membership Corporation
North Georgia Electric Membership Corporation
*Walton Electric Membership Corporation

State: Hawaii

Regulatory Authority: Hawaii Public Utilities Commission.

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Hawaiian Electric Company, Inc.

State: Idaho

Regulatory Authority: Idaho Public Utilities Commission.

Gas Utilities

Investor-Owned:
Intermountain Gas Company
Washington Water Power Company

Electric Utilities

Investor-Owned:
Idaho Power Company
Pacific Power and Light Company
Utah Power and Light Company
Washington Water Power Company

State: Illinois

Regulatory Authority: Illinois Commerce Commission.

Gas Utilities

Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Illinois Power Company
Iowa-Illinois Gas and Electric Company
North Shore Gas Company
Northern Illinois Gas Company
Panhandle Eastern Pipeline Company
Peoples Gas, Light and Coke Company

Electric Utilities

Investor-Owned:
Central Illinois Light Company
Central Illinois Public Service Company
Commonwealth Edison Company
Illinois Power Company
Interstate Power Company
Iowa-Illinois Gas and Electric Company
Union Electric Company
The following covered utility within the State of Illinois is not regulated by the Illinois Commerce Commission:

Electric Utilities

Publicly-Owned:
Springfield Water, Light and Power Department

State: Indiana

Regulatory Authority: Indiana Public Service Commission.

Gas Utilities

Investor-Owned:
Indiana Gas Company
Midwest Natural Gas Corporation
Northern Indiana Public Service Company
Southern Indiana Gas and Electric Company
Terre Haute Gas Corporation
Publicly-Owned:
Citizens Gas and Coke Utility

Electric Utilities

Investor-Owned:
Indiana and Michigan Electric Company
Indianapolis Power and Light Company
Northern Indiana Public Service Company
Public Service Company of Indiana
Southern Indiana Gas and Electric Company

Publicly-Owned:

*Richmond Power and Light

State: Iowa

Regulatory Authority: Iowa Commerce Commission.

Gas Utilities

Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
North Central Public Service Company
Peoples Natural Gas Company, Division of Internorth, Inc.

Electric Utilities

Investor-Owned:
Interstate Power Company
Iowa Electric Light and Power Company
Iowa-Illinois Gas and Electric Company
Iowa Power and Light Company
Iowa Public Service Company
Iowa Southern Utilities Company
Union Electric Company
Publicly-Owned: The Iowa Commerce Commission has service and safety regulation over the following utilities—
Muscatine Power and Water
Omaha Public Power District

State: Kansas

Regulatory Authority: Kansas State Corporation Commission.

Gas Utilities

Investor-Owned:
Anadarko Production Company
Arkansas-Louisiana Gas Company
Gas Service Company
Greeley Gas Company
Kansas-Nebraska Natural Gas Company
Kansas Power and Light Company
Northern Natural Gas Company
Panhandle Eastern Pipeline Company
Peoples Natural Gas Company, Division of Internorth, Inc.
Union Gas System Inc.

Electric Utilities

Investor-Owned:
Empire District Electric Company
Kansas City Power and Light Company
Kansas Gas and Electric Company
Kansas Power and Light Company
Southerwestern Public Service Company
Western Power Division of Centel
Rural Electric Cooperatives:
*Midwest Energy Incorporated

The following covered utility within the State of Kansas is not regulated by the Kansas State Corporation Commission:

Electric Utilities

Public-Owned:
Kansas City Board of Public Utilities

State: Kentucky

Regulatory Authority: Kentucky Energy Regulatory Commission.

Gas Utilities

Investor-Owned:
Columbia Gas of Kentucky, Inc.
Equitable Gas Company
Inland Gas Company
Louisville Gas and Electric Company
Union Light, Heat and Power Company
Western Kentucky Gas Company

Electric Utilities

Investor-Owned:
Kentucky Power Company
Kentucky Utilities Company
Louisville Gas and Electric Company
Union Light, Heat and Power Company
Rural Electric Cooperatives:
Green River Electric Corporation
Henderson-Union Rural Electric Cooperative Corporation

The following covered utilities within the State of Kentucky are not regulated by the Kentucky Energy Regulatory Commission:
*Bowling Green Municipal Utilities
*Owensboro Municipal Utilities
*Pennyrile Rural Electric Cooperative Corporation
*Warren Rural Electric Cooperative Corporation
*West Kentucky Rural Electric Cooperative Corporation

State: Louisiana

Regulatory Authority: Louisiana Public Service Commission.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Entex, Inc.
Gulf States Utilities Company
Louisiana Gas Service Company

Electric Utilities

Investor-Owned:
Arkansas Power and Light
Central Louisiana Electric Company
Gulf States Utilities Company
Louisiana Power and Light Company (jurisdiction only outside of the Parish of Orleans)
Southwestern Electric Power Company
The following covered utilities within the State of Louisiana are not regulated by the Louisiana Public Service Commission:

Gas Utilities

Investor-Owned:
New Orleans Public Service, Inc.

Electric Utilities

Investor-Owned:
New Orleans Public Services, Inc.
Louisiana Power and Light Company (within the Parish of Orleans)
Publicly-Owned:
Lafayette Utilities System
Rural Electric Cooperatives:
*Dixie Electric Membership Corporation
Southwest Louisiana Electric Membership Corporation

State: Maine

Regulatory Authority: Maine Public Utilities Commission.

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Bangor Hydro-Electric Company Central Maine Power Company

State: Maryland

Regulatory Authority: Maryland Public Service Commission.

Gas Utilities

Investor-Owned:
Baltimore Gas and Electric Company
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Baltimore Gas and Electric Company
*Conowingo Power Company
Delmarva Power and Light Company of Maryland
Potomac Edison Company
Potomac Electric Power Company
Rural Electric Cooperatives:
Southern Maryland Electric Cooperative, Inc.

State: Massachusetts

Regulatory Authority: Massachusetts Department of Public Utilities

Gas Utilities

Investor-Owned:
Bay State Gas Company
Boston Gas Company
Colonial Gas Energy System
Commonwealth Gas Company
Lowell Gas Company
New Bedford Gas and Edison Light Company

Electric Utilities

Investor-Owned:
Boston Edison Company
Cambridge Electric Light Company
Commonwealth Electric Company
Eastern Edison Company
Massachusetts Electric Company
Western Massachusetts Electric Company

State: Michigan

Regulatory Authority: Michigan Public Service Commission.

Gas Utilities

Investor-Owned:
Battle Creek Gas Company
Consumers Power Company
Michigan Consolidated Gas Company
Michigan Gas Utilities Company
Michigan Power Company
Southeastern Michigan Gas Company
Wisconsin Public Service Corporation

Electric Utilities

Investor-Owned:
Consumers Power Company
Detroit Edison Company
Indiana and Michigan Electric Company
*Lake Superior District Power Company
*Michigan Power Company
Upper Peninsula Power Company
Wisconsin Electric Power Company
Wisconsin Public Service Corporation
The following covered utilities within the State of Michigan are not regulated by the Michigan Public Service Commission:

Electric Utilities

Publicly-Owned:
Lansing Board of Water and Light

State: Minnesota

Regulatory Authority: Minnesota Public Utility Commission.

Gas Utilities

Investor-Owned:
Inter City Gas Company
Interstate Power Company
Iowa Electric Light and Power Company
Minnesota Gas Company
Montana-Dakota Utilities Company
North Central Public Service Company
Northern States Power Company
Peoples Natural Gas Company-Division of Internorth Inc.

Electric Utilities

Investor-Owned:
Interstate Power Company
Minnesota Power and Light Company
Northern States Power Company
Otter Tail Power Company
The following covered utility within the State of Minnesota is not regulated by the Minnesota Public Service Commission:

Electric Utilities

Publicly-Owned:
*Rochester Department of Public Utilities
Rural Electric Cooperative
*Anoka Electric Cooperative

State: Mississippi

Regulatory Authority: Mississippi Public Service Commission.

Gas Utilities

Investor-Owned:
Entex, Inc.
Mississippi Valley Gas Company

Electric Utilities

Investor-Owned:
Mississippi Power and Light Company
Mississippi Power Company
The following covered utilities within the State of Mississippi are not regulated by the Mississippi Public Service Commission.

Electric Utilities

Rural Electric Cooperatives:
*4-County Electric Power Association
*Singing River Electric Power Association
*Southern Pine Electric Power Association

State: Missouri

Regulatory Authority: Missouri Public Service Commission

Gas Utilities

Investor-Owned:
Associated Natural Gas Company
Gas Service Company
Laclede Gas Company Consolidated
Missouri Public Service Company
Peoples Natural Gas Company, Division of Internorth, Inc.

Electric Utilities

Investor-Owned:
Arkansas-Missouri Power Company
Empire District Electric Company
Kansas City Power and Light Company
Missouri Edison Company
Missouri Power and Light Company
Missouri Public Service Company
Missouri Utilities Company
St. Joseph Light and Power Company
Union Electric Company
The following covered utilities within the State of Missouri are not regulated by Missouri Public Service Commission.

Gas Utilities

Investor-Owned:
Cities Service Gas Company
Publicly-Owned:
Springfield City Utilities

Electric Utilities

Publicly-Owned:

*Independence Power and Light Department
Springfield City Utilities

State: Montana

Regulatory Authority: Montana Public Service Commission.

Gas Utilities

Investor-Owned:
Montana-Dakota Utilities Company
Montana Power Company

Electric Utilities

Investor-Owned:
Black Hills Power and Light Company
Montana-Dakota Utilities Company
Montana Power Company
Pacific Power and Light Company
Washington Water Power Company

State: Nebraska

Regulatory Authority: Nebraska Public Service Commission.

The Commission does not regulate the rates and service of the gas and electric utilities of the State of Nebraska

The following covered utilities within the State of Nebraska are not regulated by the Nebraska Public Service Commission.

Electric Utilities

Publicly-Owned:
Lincoln Electric System
Nebraska Public Power District
Omaha Public Power District

Gas Utilities

Investor-Owned:
Gas Service Company
Iowa Electric Light and Power Company
Iowa Public Service Company
Kansas-Nebraska Natural Gas Company
Minnesota Gas Company
Northern Natural Gas Company
Northwestern Public Service Company
Peoples Natural Gas Company, Division of Internorth, Inc.

The governing body of each Nebraska municipality exercises ratemaking jurisdiction over gas ultility rates, operations and services provided by a gas utility within its city or town limits. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority.

Publicly-Owned:
Metropolitan Utilities District of Omaha

State: Nevada

Regulatory Authority: Nevada Public Service Commission.

Gas Utilities

Investor-Owned:
Southwest Gas Corporation

Electric Utilities

Investor-Owned:
Idaho Power Company
Nevada Power Company
Sierre Pacific Power Company

State: New Hampshire

Regulatory Authority: New Hampshire Public Utilities Commission.

Gas Utilities

Investor-Owned:
Concord Natural Gas Corporation

Electric Utilities

Investor Owned:
Public Service Company of New Hampshire

State: New Jersey

Regulatory Authority: New Jersey Department of Energy Board of Public Utilities

Gas Utilities

Investor Owned:
Elizabethtown Gas Company
New Jersey Natural Gas Company
Public Service Electric and Gas Company
South Jersey Gas Company

Electric Utilities

Investor-Owned:
Atlantic City Electric Company
Jersey Central Power and Light Company
Public Service Electric and Gas Company
Rockland Electric Company

State: New Mexico

Regulatory Authority: New Mexico Public Service Commission.

Gas Utilities

Gas Company of New Mexico
Southern Union Gas Company

Electric Utilities

Investor Owned:
Community Public Service Company
El Paso Electric Company
*New Mexico Electric Service Company
Public Service Company of New Mexico
Southwestern Public Service Company

State: New York

Regulatory Authority: New York Public Service Commission.

Gas Utilites

Investor-Owned:
Brooklyn Union Gas Company
Columbia Gas of New York, Inc.
Consolidated Edison Company of New York, Inc.
Corning Natural Gas Corporation
Long Island Lighting Company
National Fuel Gas Distribution Corporation
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation

Electric Utilities

Investor Owned:
Central Hudson Gas and Electric Corporation
Consolidated Edison Company of New York
Long Island Lighting Company
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation

The following covered utility within the State of New York is not regulated by the New York Public Service Commission:

Electric Utilities

Publicly-Owned:
Power Authority of New York

State: North Carolina

Regulatory Authority: North Carolina Utilities Commission.

Gas Utilities

Investor-Owned:
North Carolina Natural Gas Corporation
Piedmont Natural Gas Company
Public Service Company, Inc. of North Carolina

Electric Utilities

Investor-Owned:
Carolina Power and Light Company
Duke Power Company
*Nantahala Power & Light Company
Virginia Electric and Power Company

The following covered utilities within the State of North Carolina are not regulated by the North Carolina Utilities Commission:

Electric Utilities

Publicly-Owned:
Fayetteville Public Works Commission
*Greenville Utilities Commission
*High Point Electric Utility Department
*Rocky Mount Public Utilities
*Wilson Utilities Department

State: North Dakota

Regulatory Authority: North Dakota Public Service Commission.

Gas Utilities

Investor-Owned:
Montana Dakota Utilities Company

Electric Utilities

Investor-Owned:
Montana Dakota Utilities Company
Northern States Power Company
Otter Tail Power Company

State: Ohio

Regulatory Authority: Ohio Public Utilities Commission.

Gas Utilities

Investor-Owned:
Cincinnati Gas and Electric Company
Columbia Gas of Ohio, Inc.
Dayton Power and Light Company
East Ohio Gas Company
National Gas and Oil Company
West Ohio Gas Company

Electric Utilities

Investor-Owned:
Cincinnati Gas and Electric Company
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Dayton Power and Light Company
Monongahela Power Company
Ohio Edison Company
Ohio Power Company
Toledo Edison Company

The following covered utilities within the State of Ohio are not regulated by the Ohio Public Utilities Commission:

Electric Utilities

Publicly-Owned:
*Cleveland Division of Light and Power
Rural Electric Cooperatives:
*South Central Power Company

State: Oklahoma

Regulatory Authority: Oklahoma Corporation Commission.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Gas Service Company
Lone Star Gas Company
Oklahoma Natural Gas Company
Southern Union Gas Company
Union Gas System Inc.

Electric Utilities

Investor-Owned:
Empire District Electric Company
Oklahoma Gas and Electric Company
Public Service Company of Oklahoma
Southwestern Public Service Company
Rural Electric Cooperatives:
*Cotton Electric Cooperative

Gas Utilities

Investor-Owned:
Cities Service Gas Company

State: Oregon

Regulatory Authority: Public Utility Commissioner of Oregon.

Gas Utilities

Investor-Owned:
Cascade Natural Gas Corporation
Northwest Natural Gas Company

Electric Utilities

Investor-Owned:
Idaho Power Company
Pacific Power and Light Company
Portland General Electric Company
The following covered utilities within the State of Oregon are not regulated by the Public Utility Commissioner or Oregon:

Electric Utilites

Pulicly-Owened:
Central Lincoln People's Utility District
*Clatskanie People's Utility District
Eugene Water and Electric Board
*Springfield Utilities Board
Rural Electric Cooperatives:
*Umatilla Electric Coopefative Association

State: Pennsylvania

Regulatory Authority: Pennsylvania Public Utility Commission.

Gas Utilities

Investor-Owned:
Carnegie Natural Gas Company
Columbia Gas of Pennsylvania, Inc.
Equitable Gas Company
National Fuel Gas Distrubution Corporation
North Penn Gas Company
Pennsylvania Gas and Water Copmpany
Peoples Natural Gas Company
Philadelphia Electric Company
T.W. Phillips Gas and Oil Company
UGI Corporation

Electric Utilities

Investor-Owned:
Duquesne Light Company
Metropolitan Edison Company
Pennsylvania Electric Company
Pennsylvania Power Company
Pennsylvania Power and Light Company
Philadelphia Electric Company
*UGI—Luzerne Electric Division
West Penn Power Company
The following covered utility within the State of Pennsylvania is not regulated by the Pennsylvania Public Utility Commission:

Gas Utilities

Publicly-Owened:
Philadelphia Gas Works

State: Puerto Rico

Regulatory Authority: Puerto Rico Public Service Commission.

Gas Utilites

None.

Electric Utilites

None.
The following covered utility within Puerto Rico is not regulated by the Puerto Rico Public Servcie Commission:

Electric Utitities

Publicly-Owened:
Puerto Rico Electric Power Authority

State: Rhode Island

Regulatory Authority: Rhode Island Public Utilities Commission.

Gas Utilities

Investor-Owned:
Providence Gas Company

Electric Utilities

Investor-Owned:
Blackstone Valley Electric Company
Narragansett Electric Company

State: South Carolina

Regulatory Authority: South Carolina Public Service Commission.

Gas Utilities

Investor-Owned:
Carolina Pipeline Company
Piedmont Natural Gas Company
South Carolina Electric and Gas Company

Electric Utilities

Investor-Owned:
Carolina Power and Light Company
Duke Power Company
South Carolina Electric and Gas Company
The following covered utility within the State of South Carolina is not regulated by the South Carolina Public Service Commission:

Electric Utilities

Publicly-Owned:
South Carolina Public Service Authority

State: South Dakota

Regulatory Authority: South Dakota Public Utilities Commission.

Gas Utilities

Investor-Owned:
Iowa Public Service Company
Minnesota Gas Company
Montana-Dakota Utilities Company
Northwestern Public Service Company

Electric Utilities

Investor-Owned:
Black Hills Power and Light Company
Iowa Public Service Company
Montana-Dakota Utilities Company
Northern States Power Company
*Northwestern Public Service Company
Otter Tail Power Company
The following covered utility within the State of South Dakota is not regulated by the South Dakota Public Service Commission:

Electric Utilities

Publicly-Owned:
Nebraska Public Power District

State: Tennessee

Regulatory Authority: Tennessee Public Service Commission.

Gas Utilities

Investor-Owned:
Chattanooga Gas Company
Nashville Gas Company

Electric Utilities

Investor-Owned:
Kingsport Power Company
The following covered utilities within the State of Tennessee are not regulated by the Tennessee Public Service Commission:

Electric Utilities

Publicly-Owned:
*Bristol Tennessee Electric System
Chattanooga Electric Power Board
*Clarksville Department of Electricity
*Cleveland Utilities
*Greensville Light and Power System
*Jackson Utility Division—Electric Department
Johnson City Power Board
Knoxville Utilities Board
*Lenoir City Utilities Board
Memphis Light, Gas and Water Division
*Murfreesboro Electric Department
*Nashville Electric Services
Rural Electric Cooperatives:
*Appalachian Electric Cooperative
Cumberland Electric Membership Corporation
*Duck River Electric Membership Corporation
*Gibson County Electric Membership Corporation
*Meriweather Lewis Electric Cooprative
Middle Tennessee Electric Membership Corporation
*Southwest Tennessee Electric Membership Corporation
*Tri-County Electric Membership Corporation
*Upper Cumberland Electric Membership Corporation
Volunteer Electric Cooperative

Gas Utilities

Publicly-Owned:
Memphis Light, Gas and Water Division

State: Tennessee

Regulatory Authority: Tennessee Valley Authority.

Gas Utilities

None.

Electric Utilities

Publicly-Owned:
*Bristol Tennessee Electric System
Chattanooga Electric Power Board
*Clarksville Department of Electricity
*Cleveland Utilities
Decatur Electric Department
*Florence Electricity Department
*Greeneville Light and Power System
Huntsville Electric System
Jackson Utility Divisoion—Electric Department
Johnson City Power Board
Knoxville Utilities Board
*Lenoir City Utilities Board
Memphis Light, Gas and Water Division
*Murfreesboro Electric Department
Nashville Electric Service
Rural Electric Cooperatives:
*Appalachian Electric Cooperative
Cumberland Electric Membership Corporation
*Duck River Electric Membership Corporation
*Four-County Electric Power Association
*Gibson County Electric Membership Corporation
*Meriweather Lewis Electric Cooperative
Middle Tennessee Electric Membership Corporation
North Georgia Electric Membership Corporation
*Pennyrile Rural Electric Cooperative Corporation
*Southwest Tennessee Electric Membership Corporation
* Tri-County Electric Membership Corporation
* Upper Cumberland Electric Membership Corporation
Volunteer Electric Cooperative
* Warren Rural Electric Cooperative Corporation
* West Kentucky Rural Electric Cooperative Corporation

State: Texas

Regulatory Authority: Texas Public Utility Commission.

Gas Utilities

Investor-Owned:
None.

Electric Utilities

Investor-Owned:
Central Power and Light Company
Dallas Power and Light Company
El Paso Electric Company
Gulf States Utilities
Houston Lighting and Power Company
Southwestern Electric Power Company
* Southwestern Electric Service Company
Southwestern Public Service Company
Texas Electric Service Company
Texas New Mexico Power Company
Texas Power and Light Company
West Texas Utilities Company
Publicly-Owned
* Lower Colorado River Authority
Rural Electric Cooperatives:
* Guadalupe Valley Electric Cooperative
Pedernales Electric Cooperative
Sam Houston Electric Cooperative

The governing body of each Texas municipality exercises exclusive original jurisdiction over electric utility rates, operations and services provided by an electric utility (whether privately owned or publicly owned) within is city or town limits, unless the municipality has surrendered this jurisdiction to the Texas Public Utility Commission. The Commission hears *de novo* appeals from the decisions of such municipalities. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of a State regulatory authority.

The municipally-owned electric utilities listed below are not under the commission's original ratemaking jurisdiction.

Electric Utilities

Publicly-Owned
Austin Electric Department
Garland Electric Department
* Lubbock Power and Light
San Antonio City Public Service Board

State: Texas

Regulatory Authority: Railroad Commission of Texas.

Gas Utilities

Investor-Owned:
Arkansas-Louisiana Gas Company
Energas Company
Entex, Inc.
Lone Star Gas Company
Peoples Natural Gas Division of Northern Natural Gas Company
Southern Union Gas Company

The Railroad Commission of Texas has special appellate jurisdiction over ratemaking decisions of the governing body of any municipality which affect the rates of a municipally-owned gas utility as provided by State statute. The governing body of each Texas municipality exercises exclusive original ratemaking jurisdiction over gas utility rates, operations, and services provided by a gas utility within its city or town limits. These municipal authorities would be State agencies as defined by PURPA and thus have responsibilities under PURPA identical to those of a State regulatory authority.

The following covered utilities within the State of Texas are not regulated by the Railroad Commission of Texas:

Gas Utilities

Investor-Owned:
City Service Gas Company
Public-Owned:
City Public Service Board (San Antonio)

State: Utah

Regulatory Authority: Utah Public Service Commission.

Gas Utilities

Investor-Owned:
Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:
Utah Power and Light Company
Rural Electric Cooperatives:
Moon Lake Electric Association

State: Vermont

Regulatory Authority: Vermont Public Service Board.

Gas Utilities

None.

Electric Utilities

Investor-Owned:
Central Vermont Public Service Corporation
Green Mountain Power Corporation
Public Service Company of New Hampshire

State: Virginia

Regulatory Authority: Virginia State Corporation Commission.

Gas Utilities

Investor-Owned:
Columbia Gas of Virginia Inc.
Virginia Natural Gas
Washington Gas Light Company

Electric Utilities

Investor-Owned:
Appalachian Power Company
Delmarva Power and Light Company
*Old Dominion Power Company
Potomac Edision Company
Potomac Electric and Power Company
Virginia Electric and Power Company
Publicly-Owned:
*Danville Water, Gas & Electric

Rural Electric Cooperatives:

*Prince William Electric Cooperative
Rappahannock Electric Cooperative
The following covered utility within the State of Virginia is not regulated by the Virginia State Corporation Commission.

Gas Utilities

Publicly-Owned:
City of Richmond, Virginia, Department of Public Utilities

State: Washington

Regulatory Authority: Washington Utilities and Transportation Commission.

Gas Utilities

Investor-Owned:
Cascade Natural Gas Corporation
Northwest Natural Gas Company
Washington Natural Gas Company
Washington Water Power Company

Electric Utilities

Investor-Owned:
Pacific Power and Light Company
Puget Sound Power and Light Company
Washington Water Power Company
The following covered utilities within the State of Washington are not regulated by the

Washington Utilities and Transportation Commission.

Electric Utilities

Publicly-Owned:
*Port Angeles Light and Water Department
Public Utility District No. 1 of Benton County
Public Utility District No. 1 of Chelan County
Public Utility District No. 1 of Clark County
Public Utility District No. 1 of Cowlitz County
*Public Utility District No. 1 of Douglas County
*Public Utility District No. 1 of Franklin County
Public Utility District of Grant County
Public Utility District No. 1 of Grays Harbor County
*Public Utility District No. 1 of Lewis County
Public Utility District No. 1 of Snohomish County
*Richland Energy Services Department
Seattle City Light Department
Tacoma Public Utility—Light Division

State: West Virginia

Regulatory Authority: West Virginia Public Service Commission.

Gas Utilities

Investor-Owned:
Columbia Gas of West Virginia, Inc.
Consolidated Gas Supply Corporation
Equitable Gas Company

Electric Utilities

Investor-Owned:
Appalachian Power Company
Monongahela Power Company
Potomac Edison Company
Virginia Electric and Power Company
Wheeling Electric Company

State: Wisconsin

Regulatory Authority: Wisconsin Public Service Commission

Gas Utilities

Investor-Owned:
Madison Gas and Electric Company
Northern States Power Company
Wisconsin Fuel and Light Company
Wisconsin Gas Company
Wisconsin Natural Gas Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation

Electric Utilities

Investor-Owned:
*Lake Superior District Power Company
Madison Gas and Electric Company
Northern States Power Company
Wisconsin Electric Power Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation

State: Wyoming

Regulatory Authority: Wyoming Public Service Commission.

Gas Utilities

Investor-Owned:
Cheyenne Light Fuel and Power Company
Kansas-Nebraska Natural Gas Company
Montana-Dakota Utilities Company
Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:
Black Hills Power and Light Company
Montana-Dakota Utilities Company
Pacific Power and Light Company
Utah Power and Light Company
Rural Electric Cooperative:
Tri-County Electric Association, Inc.

Appendix B

Electric Utilities

All utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt hours in 1976, 1977, 1978, 1979, 1980, 1981 or 1982. All except those marked (*) are covered by PURPA Title I and NECPA Title II and VII. Utilities marked (*) either did not exceed the NECPA threshold of 750 million kilowatt-hour in 1982 for purposes other than resale, or do not have residential or commercial sales and therefore, are not covered by NECPA Titles II and VII. The utilities listed more than once have sales in more than one State, and those States are indicated by abbreviations in parentheses.

Investor-Owned:
Alabama Power Company
Appalachian Power Company (VA)
Appalachian Power Company (WV)
Arizona Public Service Company
Arkansas-Missouri Power Company (AR)
Arkansas-Missouri Power Company (MO)
Arkansas Power & Light Company (AR)
Arkansas Power & Light Company (LA)
Atlantic City Electric Company
Baltimore Gas & Electric Company
Bangor Hydro-Electric Company
Black Hills Power & Light Company (MT)
Black Hills Power & Light Company (SD)
Black Hills Power & Light Company (WY)
Blackstone Valley Electric Company
Boston Edison Company
Cambridge Electric Light Company
Carolina Power & Light Company (NC)
Carolina Power & Light Company (SC)
Central Hudson Gas & Electric Corporation
Central Illinois Light Company
Central Illinois Public Service Company
Central Louisiana Electric Company
Central Maine Power Company
Central Power & Light Company
Central Vermont Public Service Corporation
Cincinnati Gas & Electric Company
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Commonwealth Edison Company
Commonwealth Electric Company
Community Public Service Company (NM)
Connecticut Light & Power Company
*Conowingo Power Company
Consolidated Edison Company of New York
Consumer Power Company
Dallas Power & Light Company
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
Delmarva Power & Light Company (VA)
Delmarva Power & Light Company of Maryland
Detroit Edison Company
Duke Power Company (NC)
Duke Power Company (SC)
Duquesne Light Company
Eastern Edison Company
El Paso Electric Company (NM)
El Paso Electric Company (TX)
Empire District Electric Company (AR)
Empire District Electric Company (KS)
Empire District Electric Company (MO)
Empire District Electric Company (OK)
Florida Power Corporation
Florida Power & Light Company
Georgia Power Company
Green Mountain Power Corporation
Gulf Power Company
Gulf States Utilities Company (LA)
Gulf States Company (TX)
Hawaiian Electric Company Inc.
Houston Lighting & Power Company
Idaho Power Company (ID)
Idaho Power Company (NV)
Idaho Power Company (OR)
Illinois Power Company
Indiana & Michigan Electric Company (IN)
Indiana & Michigan Electric Company (MI)
Indianapolis Power & Light Company
Interstate Power Company (IA)
Interstate Power Company (IL)
Interstate Power Company (MN)
Iowa Electric Light & Power Company
Iowa-Illinois Gas & Electric Company (IA)
Iowa-Illinois Gas & Electric Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (SD)
Iowa Southern Utilities Company
Jersey Central Power & Light Company
Kansas City Power & Light Company (KS)
Kansas City Power & Light Company (MO)
Kansas Gas & Electric Company
Kansas Power & Light Company
Kentucky Power Company
Kentucky Utilities Company
Kingsport Power Company
*Lake Superior District Power Company (MI)
Lake Superior District Power Company (WI)
Long Island Lighting Company
Louisiana Power & Light Company
Louisville Gas & Electric Company
Madison Gas & Electric Company
Massachusetts Electric Company
Metropolitan Edison Company
*Michigan Power Company
Minnesota Power & Light Company
Mississippi Power Company
Mississippi Power & Light Company
Missouri Edison Company
Missouri Power & Light Company
Missouri Public Service Company
Missouri Utilities Company
Monongahela Power Company (OH)
Monongahela Power Company (WV)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilites Company (ND)
Montana-Dakota Utilites Company (SD)
Montana-Dakota Utilites Company (WY)
Montana-Dakota Power Company
*Nantahala Power & Light Company
Narragansett Electric Company
Nevada Power Company
*New Mexico Electric Service Company
New Orleans Public Service Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Company
Northern Indiana Public Service Company

Northern States Power Company (MN)
Northern States Power Company (ND)
Northern States Power Company (SD)
Northern States Power Company (WI)
Northwestern Public Service Company
Ohio Edison Company
Ohio Power Company
Oklahoma Gas & Electic Company (AR)
Oklahoma Gas & Electric Company (OK)I24*Old Dominion Power Company
Orange & Rockland Utilities
Otter Tall Power Company (MN)
Otter Tall Power Company (ND)
Otter Tall Power Company (SD)
Pacific Gas & Electric Company
Pacific Power Light Company (CA)
Pacific Power Light Company (ID)
Pacific Power Light Company (MT)
Pacific Power Light Company (OR)
Pacific Power Light Company (WA)
Pacific Power Light Company (WY)
Pennsylvania Electric Company
Pennsylvania Power & Light Company
Pennsylvania Power Company
Philadelphia Electric Company
Portland General Electric Company
Porland General Electric Company
Potomac Edison Company (MD)
Potomac Edison Company (VA)
Potomac Edison Company (WV)
Potomac Edison Power Company (DC)
Potomac Edison Power Company (MD)
Potomac Edison Power Company (VA)
Public Service Company of Colorado
Public Service Company of Indiana
Public Service Company of New Hampshire (NH)
Public Service Company of New Hampshire (VT)
Public Service Company of New Mexico
Public Service Company of Oklahoma
Public Service Electric and Gas Company
Puget Sound Power & Light Company
Rochester Gas & Electric Corporation
Rockland Electric Company
St. Joseph Light & Power Company
San Diego Gas & Electric Company
Savannah Electric & Power Company
Sierra Pacific Power Company (CA)
Sierra Pacific Power Company (NV)
South Carolina Electric & Gas Company
Southern California Edison Company
Southern Indiana Gas & Electric Company
Southwestern Electric Power Company (AR)
Southwestern Electric Power Company (LA)
Southwestern Electric Power Company (TX)
*Southwestern Electric Service Company
Southwestern Public Service Company (KS)
Southwestern Public Service Company (NM)
Southwestern Public Service Company (OK)
Southwestern Public Service Company (TX)
Tampa Electric Company
Texas Electric Service Company
Texas New Mexico Power Company
Texas Power & Light Company
Toledo Edison Company
Tucson Electric Power Company
*UGI-Luzerne Electric Division
Union Electric Company (LA)
Union Electric Company (IL)
Union Electric Company (MO)
Union Light, Heat & Power Company
United Illuminating Company
*Upper Peninsula Power Company
Utah Power & Light Company (ID)
Utah Power & Light Company (UT)
Utah Power & Light Company (WY)
Virginia Electric & Power Company (NC)
Virginia Electric & Power Company (VA)
Virginia Electric & Power Company (WV)
Washington Water Power Company (ID)
Washington Water Power Company (MT)
Washington Water Power Company (WA)
West Penn Power Company
West Texas Utilities Company
Western Massachusetts Electric Company
Western Power Division of Centel (CO)
Western Power Division of Centel (KS)
Wheeling Electric Company
Wisconsin Electric Power Company (MI)
Wisconsin Electric Power Company (WI)
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Publicly-Owned:

*Albany Water, Gas & Light Commission (GA)
Anaheim Public Utilities Department (CA)
*Anchorage Municipal Light & Power Department (AK)
Austin Electric Department (TX)
*Bowling Green Municipal Utilities (KY)
*Bristol Tennessee Electric System (TN)
*Brownsville Public Utility Board (TX)
*Bryan Municipal Electric System (TX)
Burbank Public Service Department (CA)
Central Lincoln People's Utility District (OR)
Chattanooga Electric Power Board (TN)
*Clarksville Department of Electricity (TN)
*Clatskanie People's Utility District (OR)
*Cleveland Division of Light & Power (OH)
*Cleveland Utilities (TN)
Colorado Springs Department of Public Utilities (CO)
*Dalton Water, Light & Sink (GA)
*Danville Water, Gas & Electric (VA)
Decatur Electric Department (AL)
*Dothan Electric Department (AL)
Eugene Water & Electric Board (OR)
Fayetteville Public Works Commission (NC)
*Forence Electricity Department (AL)
Gainesville Regional Utilities (FL)
Garland Electric Department (TX)
Glendale Public Service Department (CA)
*Greeneville Light & Power System (TN)
*Greenville Utilities Commission (NC)
*Groton Public Utilities (CT)
*High Point Electric Utility Dept. (NC)
Huntsville Electric System (AL)
Imperial Irrigation District (CA)
*Independence Power & Light Department (MO)
Jackson Utility Division—Electric Department (TN)
Jacksonville Electric Authority (TN)
Johnson City Power Board (TN)
Kansas City Board of Public Utilities (KS)
Knoxville Utilities Board (TN)
Lafayette Utilities System (LA)
Lakeland Department of Electricity and Water (FL)
Lansing Board of Water & Light (MI)
*Lenoir City Utilities Board (TN)
Lincoln Electric System (NE)
Los Angeles Department of Water and Power (CA)
*Lower Colorado River Authority (TX)
*Lubbock Power & Light (TX)
Memphis Light, Gas & Water Division (TN)
Modesto Irrigation District (CA)
*Murfreesboro Electric Dept. (TN)
*Muscatine Power & Water (IA)
Nashville Electric Service (TN)
Nebraska Public Power District (NE)
Nebraska Public Power District (SD)
*North Little Rock Electric Department (AR)
*Ocala Utilities (FL)
Omaha Public Power District (IA)
Omaha Public Power District (NE)
Orlando Utilities Commission (FL)
*Owensboro Municipal Utilities (KY)
Palo Alto Electric Utility (CA)
Pasadena Water & Power Department (CA)
*Power Authority of New York (NY)
*Port Angeles Light & Water Department (WA)
Public Utility District No. 1 of Benton County (WA)
Public Utility District No. 1 of Chelan County (WA)
Public Utility District No. 1 of Clark County (WA)
Public Utility District No. 1 of Cowlitz County (WA)
*Public Utility District No. 1 of Douglas County (WA)
*Public Utility District No. 1 of Franklin County (WA)
Public Utility District No. 1 of Grant County (WA)
Public Utility District No. 1 of Grays Harbor County (WA)
Public Utility District No. 1 of Lewis County (WA)
Public Utility District No. 1 of Snohomish County (WA)
Puerto Rico Electric Power Authority
*Richland Energy Services Department (WA)
*Richmond Power & Light (IN)
Riverside Public Utilities (CA)
*Rochester Department of Public Utilities (MN)
*Rocky Mount Public Utilities (NC)
Sacramento Municipal Utility District (CA)
Salt River Project Agricultural Improvement and Power District (AZ)
San Antonio City Public Service Board (TX)
Santa Clara Electric Department (CA)
Seattle City Light Department (WA)
South Carolina Public Service Authority
*Springfield City Utilities (MO)
*Springfield Utilities Board (OR)
Springfield Water, Light & Power Department (IL)
Tacoma Public Utilities—Light Division (WA)
Tallahassee, City of (FL)
*Turlock Irrigation District (CA)
Vernon Municipal Light Department (CA)
*Wilson Utilities Department (NC)

Rural Electric Cooperatives

*Anoka Electric Cooperative (MN)
*Appalachian Electric Cooperative (TN)
Chugach Electric Association (AK)
Clay Electric Cooperative (FL)

*Cobb Electric Membership Corporation (GA)
*Cotton Electric Cooperative (OK)
Cumberland Electric Membership Corporation (TN)
*Duck River Electric Membership Corporation (TN)
*Dixie Electric Membership Corporation (LA)
*First Electric Cooperative Corporation (AR)
*Flint Electric Membership Corporation (GA)
*Four County Electric Power Association (MS)
*Gibson County Electric Membership Corporation (TN)
Green River Electric Corporation (KY)
*Guadalupe Valley Electric Cooperative (TX)
Henderson-Union Rural Electric Cooperative Corporation (KY)
*Jackson Electric Membership Corporation (GA)
Lee County Electric Cooperative (FL)
*Meriweather Lewis Electric Cooperative (TN)
Middle Tennessee Electric Membership Corporation (TN)
*Midwest Energy Incorporated (KS)
Moon Lake Electric Association (UT)
North Georgia Electric Membership Corporation (GA)
Pedernales Electric Cooperative Corporation (KY)
*Pennyrile Rural Electric Cooperative Corporation (KY)
*Prince William Electric Cooperative (VA)
Rappahannock Electric Cooperative (VA)
*Rural Electric System (AL)
*Sam Houston Electric Cooperative (TX)
*Singing River Electric Power Association (MS)
*South Central Power Company (OH)
Southern Maryland Electric Cooperative, Inc. (MD)
*Southern Pine Electric Power Association (MS)
Southwest Louisiana Electric Membership Corporation (LA)
*Southwest Tennessee Electric Membership Corporation (TN)
*Trico Electric Cooperative, Inc. (AZ)
Tri-County Electric Association, Inc. (WY)
*Tri-County Electric Membership Corporation (TN)
*Umatilla Electric Cooperative Association (OR)
*Upper Cumberland Electric Membership Corporation (TN)
Volunteer Electric Cooperative (TN)
*Walton Electric Membership Corporation (GA)
*Warren Rural Electric Cooperative Corporation (KY)
*West Kentucky Rural Electric Cooperative Corporation (KY)
Withlacoochee River Electric Cooperative (FL)

Federal Agencies

*Bonneville Power Administration (OR)
*Tennessee Valley Authority (TN)
*Western Area Power Administration (CO)

Gas Utilities

All gas utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977, 1978, 1979, 1980, 1981 or 1982. All except those marked (*) are covered by PURPA Title III and NECPA Titles II and VII. Utilities marked (*) are not covered by NECPA Titles II and VII because they either do not exceed the NECPA threshold of 10 billion cubic feet in 1982 for purposes other than resale, or do not have residential or commercial sales. The utilities listed more than once have sales in more than one State and those States are indicated by abbreviations in parentheses.Investor-Owned

Alabama Gas Corporation
*Alabama-Tennessee Natural Gas Company
Anadarko Production Company
Arizona Public Service Company
Arkansas-Louisiana Gas Company (AR)
Arkansas-Louisiana Gas Company (KS)
Arkansas-Louisiana Gas Company (LA)
Arkansas-Louisiana Gas Company (OK)
Arkansas-Louisiana Gas Company (TX)
Arkansas-Oklahoma Gas Corporation (AR)
Arkansas-Oklahoma Gas Corporation (OK)
Arkansas Western Gas Company
Associated Natural Gas Company (AR)
Associated Natural Gas Company (MO)
Atlanta Gas Light Company
Baltimore Gas & Electric Company
Battle Creek Gas Company
Bay State Gas Company
Boston Gas Company
Brooklyn Union Gas Company
Carnegie Natural Gas Company
Carolina Pipeline Company
Cascade Natural Gas Corporation (OR)
Cascade Natural Gas Corporation (WA)
Central Illinois Light Company
Central Illinois Public Service Company
Chattanooga Gas Company (GA)
Chattanooga Gas Company (TN)
Cheyenne Light, Fuel and Power Company
Cincinnati Gas and Electric Company
Cities Service Gas Company (covered by NECPA only)
City Gas Company of Florida
City Service Gas Company
Colonial Gas Energy System
Columbia Gas of Kentucky, Inc.
Columbia Gas of New York, Inc.
Columbia Gas of Ohio, Inc.
Columbia Gas of Pennsylvania, Inc.
Columbia Gas of Virginia, Inc.
Columbia Gas of West Virginia, Inc.
Commonwealth Gas Company
Commonwealth Gas Service Incorporated
Concord Natural Gas Corporation
Connecticut Light & Power Company
Connecticut Natural Gas Corporation
Consolidated Edison Company of New York, Inc.
Consolidated Gas Supply Corporation
Consumers Power Company
Corning Natural Gas Corporation
Dayton Power & Light Company
Delmarva Power & Light Company (DE)
East Ohio Gas Company
Elizabethtown Gas Company
Energas Company
Enstar Natural Gas Company
Entex Inc. (LA)
Entex Inc. (MS)
Entex Inc. (TX)
Equitable Gas Company (KY)
Equitable Gas Company (PA)
Equitable Gas Company (WV)
Gas Company of New Mexico
Gas Light Company of Columbus
Gas Service Company (KS)
Gas Service Company (MO)
Gas Service Company (NE)
Gas Service Company (OK)
Greeley Gas Company (CO)
Greeley Gas Company (KS)
Gulf States Utilities Company
Illinois Power Company
Indiana Gas Company
Inland Gas Company
Inter City Gas Company
Intermountain Gas Company
Interstate Power Company (IA)
Interstate Power Company (MN)
Iowa Electric Light & Power Company (CO)
Iowa Electric Light & Power Company (IA)
Iowa Electric Light & Power Company (MN)
Iowa Electric Light & Power Company (NE)
Iowa-Illinois Gas & Electric Company (IA)
Iowa-Illinois Gas & Electric Company (IL)
Iowa Power & Light Company
Iowa Public Service Company (IA)
Iowa Public Service Company (NE)
Iowa Public Service Company (SD)
Iowa Southern Utilities Company
Kansas-Nebraska Natural Gas Company (CO)
Kansas-Nebraska Natural Gas Company (KS)
Kansas-Nebraska Natural Gas Company (NE)
Kansas-Nebraska Natural Gas Company (WY)
Kansas Power & Light Company
Laclede Gas Company Consolidated
Lone Star Gas Company (OK)
Lone Star Gas Company (TX)
Long Island Lighting Company
Louisiana Gas Service Company
Louisville Gas & Electric Company
Lowell Gas Company
Madison Gas & Electric Company
Michigan Consolidated Gas Company
Michigan Gas Utilities Company
Michigan Power Company
Midwest Natural Gas Corporation
Minnesota Gas Company (MN)
Minnesota Gas Company (NE)
Minnesota Gas Company (SD)
Mississippi Valley Gas Company
Missouri Public Service Company
Mobile Gas Service Corporation
Montana-Dakota Utilities Company (MN)
Montana-Dakota Utilities Company (MT)
Montana-Dakota Utilities Company (ND)
Montana-Dakota Utilities Company (SD)
Montana-Dakota Utilities Company (WY)
Montana Power Company
Mountain Fuel Supply Company (UT)
Mountain Fuel Supply Company (WY)
Nashville Gas Company
National Fuel Gas Distribution Corporation (NY)
National Fuel Gas Distribution Corporation (PA)
National Gas and Oil Company
New Bedford Gas and Edison Light Company

New Jersey Natural Gas Company
New Orleans Public Service, Inc.
New York State Electric & Gas Corporation
Niagara Mohawk Power Company
North Carolina Natural Gas Corporation
North Central Public Service Company (IA)
North Central Public Service Company (MN)
North Shore Gas Company
Northeast Utilities (CT)
Northern Illinois Gas Company
Northern Indiana Public Service Company
Northern Natural Gas Company (KS)
Northern Natural Gas Company (NE)
Northern States Power Company (MN)
Northern States Power Company (WI)
North Penn Gas Company
Northwest Alabama Gas District
Northwest Natural Gas Company (OR)
Northwest Natural Gas Company (WA)
Northwestern Public Service Company (NE)
Northwestern Public Service Company (SD)
Oklahoma Natural Gas Company
Orange & Rockland Utilities
Pacific Gas & Electric Company
Panhandle Eastern Pipeline Company (IL)
Panhandle Eastern Pipeline Company (KS)
Pennsylvania Gas & Water Company
Peoples Gas, Light and Coke Company
Peoples Gas System
Peoples Natural Gas Company
Peoples Natural Gas Company, Division of Internorth, Inc. (CO)
Peoples Natural Gas Company, Division of Internorth, Inc. (IA)
Peoples Natural Gas Company, Division of Internorth, Inc. (KS)
Peoples Natural Gas Company, Division of Internorth, Inc. (MN)
Peoples Natural Gas Company, Division of Internorth, Inc. (MO)
Peoples Natural Gas Company, Division of Internorth, Inc. (NE)
Peoples Natural Gas Company, Division of Internorth, Inc. (TX)
Philadelphia Electric Company
Piedmont Natural Gas Company (NC)
Piedmont Natural Gas Company (SC)
Providence Gas Company
Public Service Company of Colorado
Public Service Company, Inc. of North Carolina
Public Service Electric and Gas Company
Rochester Gas & Electric Corporation
San Diego Gas & Electric Company
South Carolina Gas & Electric Company
South Jersey Gas Company
Southeastern Michigan Gas Company
Southern California Gas Company
Southern Connecticut Gas Company
Southern Indiana Gas & Electric Company
Southern Union Gas Company (AZ)
Southern Union Gas Company (NM)
Southern Union Gas Company (OK)
Southern Union Gas Company (TX)
Southwest Gas Corporation (AZ)
Southwest Gas Corporation (CA)
Southwest Gas Corporation (NV)
Terre Haute Gas Corporation
T.W. Phillips Gas and Oil Company
UGI Corporation
Union Gas System, Inc. (KS)
Union Gas System, Inc. (OK)
Union Light, Heat & Power Company (KY)
Virginia Natural Gas
Washington Gas Light Company (DC)
Washington Gas Light Company (MD)
Washington Gas Light Company (VA)
Washington Natural Gas Company
Washington Water Power Company (ID)
Washington Water Power Company (WA)
West Ohio Gas Company
Western Kentucky Gas Company
Wisconsin Fuel & Light Company
Wisconsin Gas Company
Wisconsin Natural Gas Company
Wisconsin Power & Light Company
Wisconsin Public Service Corporation (MI)
Wisconsin Public Service Corporation (WI)

Public-Owned

Citizens Gas & Coke Utility (IN)
City of Richmond, Virginia, Department of Public Utilities (VA)
City Public Services Board (San Antonio) (TX)
Colorado Springs, Department of Public Utilities (CO)
Long Beach Gas Department (CA)
Memphis Light, Gas & Water Division (TN)
Metropolitan Utilities District of Omaha (NE)
Philadelphia Gas Works (PA)
Springfield City Utilities (MO)

[FR Doc. 84-169 Filed 1-6-84; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Kansas Power and Light; Order Accepting for Filing and Suspending Rates, Noting Interventions, Consolidating Dockets, Granting Waiver in Part, and Establishing Hearing Procedures

Issued: December 30, 1983.

[Docket Nos. ER84-79-000, ER84-80-000, ER84-81-000, and ER83-418-000]

On November 10, 1983, Kansas Power and Light Company (KPL) submitted for filing executed agreements and proposed service schedules providing for partial requirements and wheeling service to Kaw Valley Electric Cooperative, Inc., Nemaha-Marshall Electric Cooperative Association, Inc., and Doniphan Electric Cooperative Association, Inc. (collectively, the Cooperatives) in Docket Nos. ER84-79-000, ER84-80-000, and ER84-81-000, respectively.[1] Each of these customers currently receives full requirements service from KPL. Under the proposed rate schedules, KPL will sell power and energy to the Cooperatives and will wheel hydroelectric power and energy purchased by the Cooperatives from the Southwestern Power Administration (SWPA). KPL characterizes its proposed wheeling rate as an "initial rate" filing. The wheeling service is expected to commence on or about January 1, 1984, when SWPA power becomes available to the Cooperatives. However, KPL proposes that the rate schedules become effective as of June 1, 1983, the effective date of the contracts between KPL and the Cooperatives. In order to accomplish this result, KPL requests waiver of the notice requirements.

Notice of KPL's filing was published in the Federal Register with comments due on or before December 5, 1983 (48 FR 53597-593 (1983)). On November 30, 1983, the Cooperatives filed a motion to intervene, a motion for consolidation of dockets, and a request that the Commission suspend KPL's wheeling rate for one day. The Cooperatives note that the currently proposed wheeling rate is based on the cost of service at issue is a pending KPL rate case (Docket No. ER83-418-000) and that the partial requirements rate now proposed by KPL is also at issue in the earlier proceedings. They therefore request that the Commission not decide the issue of the justness or reasonableness of KPL's rates until the proceedings in Docket No. ER83-418-000 have been resolved. However, the Cooperatives request that the Commission promptly accept the current submittal for filing, suspend it for one day in order to provide refund protection, and consolidate this case with Docket No. ER83-418-000. Even if KPL's characterization of its wheeling rate as an initial rate is accepted, the Cooperatives contend that the filing can and should be suspended[2] or, at least, set for hearing pursuant to Section 205 of the Federal Power Act. Despite their concerns with respect to the proposed rate levels, the Cooperatives "strongly support" KPL's request for waiver of notice and an effective date of June 1, 1983. If this request is not granted, they ask that the rates be made effective no later than January 1, 1984.

On December 15, 1983, KPL filed an answer to the Cooperatives' pleading. KPL objects to the requested suspension of the proposed wheeling rate based on its contention that the Commission lacks the authority to suspend initial rates. Alternatively, KPL claims that even if the Commission asserted such authority over initial rates, this is not the type of case in which such action would be appropriate. KPL also objects to the request for consolidation on the grounds that such action is unnecessary and would unduly burden KPL.

[1] *See* Attachment for rate schedule designations.

[2] The Cooperatives base their position on the Commission's Order No. 303, Docket No. RM83-21-000, "Interpretation of Authority to Suspend Initial Rate Schedules," Final Rule, III *FERC Statutes and Regulations*, ¶ 30,456 (1983); and *Middle South Energy, Inc.*, 23 FERC ¶ 61,277 (1983).

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motion to intervene serves to make the Cooperatives parties to this proceeding.

Under the proposed agreements, KPL is clearly changing the character of service provided to existing customers and providing for a separate transmission rate. Such change cannot be accomplished except in the form of amendments and supplements to existing rate schedules. As a result, KPL's filings constitute changes in rates rather than initial rate filings.[3]

Our preliminary review of the instant filing and the Cooperatives' pleading indicates that the rates proposed by KPL have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We note that the proposed partial requirements rate is identical to the rate accepted for filing, suspended for one day, and set for hearing in Docket No. ER83-418-000, [4] and that the proposed wheeling rate is based on the same cost of service as that at issue in Docket No. ER83-418-000. Accordingly, we shall accept KPL's currently proposed rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61, 189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. In the instant proceeding, our review suggests that KPL's proposed rates may not produce substantially excessive revenues. In view of the fact that both the Cooperatives and KPL request waiver of notice and in order to have the rates in place at such time as SWPA power becomes available to the Cooperatives (January 1, 1984), we find that good cause exists to waive the notice requirements. However, we shall not allow KPL's proposed rates to go into effect retroactively as of June 1, 1983. Since service cannot and has not been intended to commence until a future date, we do not find good cause to grant this request. Therefore, we shall suspend the proposed rates, to become effective on January 1, 1984, subject to refund.

Given the close relationship between the currently proposed rates and those at issue in Docket No. ER83-418-000, we find that common questions of law and fact may be presented. Thus, we shall consolidate these dockets for puposes of hearing and decision. We note that the hearing in Docket No. ER83-418-000 is not currently scheduled to commence until the end of February, 1984, and we are not persuaded by KPL's arguments that consolidation will result in undue delay or inconvenience.

The Commission orders: (A) Waiver of the notice rrequirements is hereby granted as noted in the body of this order.

(B) KPL's proposed rates are hereby accepted for filing and suspended, to become effective, subject to refund, on January 1, 1984.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of KPL's rates.

(D) Docket Nos. ER84-79-000, ER84-80-000 and ER84-81-000 are hereby consolidated with Docket No. ER83-418-000 for purpose of hearing and decision.

(E) The administrative law judge designated to preside in Docket No. ER83-418-000 shall determine the procedures best suited for resolution of the consolidated proceeding.

(F) The Secretary shall promptly publish this order in Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

The Kansas Power and Light Company, Rate Schedule Designations, Docket Nos. ER84-79-000, ER84-80-000, and ER84-81-000

Filing Date: November 10, 1983.

Effective Date: January 1, 1984, subject to refund.

Designation	Description	Other Party
(1) Rate Schedule FERC No. 218 (Supersedes Rate Schedule FERC No. 215, as supplemented).	Agreement dated November 2, 1983.	Kaw Valley Electric Cooperative, Inc.
(2) Supplement No. 1 to Rate Schedule FERC No. 218	SWPA/WRC-83	Do.
(3) Supplement No. 2 to Rate Schedule FERC No. 218	RCW-83	Do.
(4) Rate Schedule FERC No. 219 (Supersedes Rate Schedule FERC No. 216, as supplemented).	Agreement dated November 2, 1983.	Nemaha-Marshall Electric Cooperative Association, Inc.
(5) Supplement No. 1 to Rate Schedule FERC No. 219	SWPA/WRC-83	Do.
(6) Supplement No. 2 to Rate Schedule FERC No. 219	RCW-83	Do.
(7) Rate Schedule FERC No. 220 (Supersedes Rate Schedule FERC No. 214, as supplemented).	Agreement dated November 2, 1933.	Doniphan Electric Cooperative Association, Inc.
(8) Supplement No. 1 to Rate Schedule FERC No. 220	SWPA/WRC-83	Do.
(9) Supplement No. 2 to Rate Schedule FERC No. 220	RCW-83	Do.

[FR Doc. 84-414 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-62-000]

New England Power Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, and Establishing Hearing Procedures

Issued December 30, 1983.

On November 1, 1983, New England Power Company ("NEP") tendered for filing amendments to its unit power contracts with Massachusetts Municipal Wholesale Electric Company (MMWEC) and the Town of Templeton, Massachusetts ("Templeton"), revising the rate for the sale of unit power from NEP's coal-burning Salem Harbor Units 1, 2, and 3.[1] The proposed amendments would decrease the composite rate for power from Units 1, 2, and 3 from $152.38/kW/year to $140.00/kW/year. The cumulative effect of the proposed rate change represents an overall decrease in revenues of approximately $950,000 for the calendar year 1984 test period.[2] NEP requests that the proposed rates become effective on January 1, 1984, subject to refund, as specified in the agreements between NEP and the affected customers.

[3] *See*, 18 CFR 35.1(c). We note, however, that in our view, the characterization of KPL's filing as an initial rate filing would not put such filing beyond the scope of the Commission's authority to suspend rates since the Commission can suspend initial rates also. Order No. 303, *supra; Middle South, supra.*

[4] 23 FERC ¶61, 330 (1983).

[1] *See* Attachment for rate schedule designations.

[2] NEP incorrectly states that the proposed rate would increase revenues associated with Unit No. 3 capacity by $537,420 (2.6%) during the test period by increasing the unit charge from $117.00 to $140.00/kW/year, and that the rate applicable to Units Nos. 1 and 2 would remain unchanged at $140.00/kW/year. However, we note that the present rate for *each* unit (pursuant to a settlement agreement in Docket No. ER82-703-000) is $152.38/kW/year. As a result, NEP's filing will result in a decrease as compared to present revenues.

Notice of the filing was published in the Federal Register, with comments due by November 23, 1983. [3] On November 23, 1983, MMWEC and Templeton (jointly referred to as "Customers") filed a timely protest and motion to intervene. The Customers challenge NEP's claimed return on common equity, depreciation rates, and allocation of property taxes. They also indicate that there may be additional issues in dispute, but they decline to identify such further issues, noting that settlement negotiations are expected to result in a resolution of the disputes. The Customers request that the rates be made effective, subject to refund, on January 1, 1984, as contemplated by their contracts with NEP.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the Customers' unopposed motion to intervene serves to make them parties to this proceeding.

Our preliminary review of NEP's submittal and the pleadings indicates that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. We shall therefore accept NEP's rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶ 61,189 (1982), we explained the Commission's suspension policy and noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed rates may be unjust and unreasonable but may not produce substantially excessive revenues, as defined in *West Texas*. Here, our review suggests that the rates proposed by NEP may not yield excessive revenues. Further, the Customers' contracts with NEP specifically provide that the rates will become effective, subject to refund, with the Customers to have an opportunity to pursue their objections before the Commission. Accordingly, we shall suspend the rates to become effective, subject to refund, on January 1, 1984.

The Commission orders: (A) NEP's proposed rates are hereby accepted for filing and are suspended to become effective, subject to refund, on January 1, 1984.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of NEP's rates.

(C) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately twenty (20) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Such conference shall be held for purposes of pursuing settlement and setting a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions of dismiss) as provided in the Commission's Rules of Practice and Procedure.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment

New England Power Company Docket, No. ER84-62-000, Rate Schedule Designations

Designation and Description

(1) Supplement No. 5 to Rate Schedule FERC No. 310—Revised Pages 1, 4, 6, 7 and 8 of Appendix A/MMWEC
(2) Supplement No. 6 to Rate Schedule FERC No. 310—Transmittal letter dated November 1, 1983
(3) Supplement No. 5 to Rate Schedule FERC No. 311—Revised Pages 1, 4, 6, 7 and 8 of Appendix A/ Templeton
(4) Supplement No. 6 to Rate Schedule FERC No. 311—Transmittal letter dated November 1, 1983

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BILLING CODE 6717-01-M

[3] The form of notice supplied by NEP contained an incorrect explanation of the proposed amendments. A corrected notice was therefore published in the Federal Register on December 6, 1983, with comments due by December 20, 1983. No additional comments have been received in response to the second notice.

[Docket No. ER84-63-000]

Southern Company Services, Inc.; Order Accepting for Filing and Suspending Rates, Granting Waiver, Granting Interventions, and Establishing Procedures

Issued December 30, 1983.

On November 1, 1983, Southern Company Services, Inc. (SCS), on behalf of is wholly-owned operating companies, Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (the Operating Companies), tendered for filing a superseding Intercompany Interchange Contract (the "Contract"),[1] together with a revised Allocation Methodology and Periodic Rate Computation Manual (the "Manual") and informational schedules setting forth the charges and rate component derivation to be used during calendar year 1984. Together, the Contract and Manual govern the accounting and payment for all interchanges of capacity and energy between the Operating Companies. The Contract provides for certain power pooling transactions which include, *inter alia*, the exchange of interchange energy and the sale and purchase of capacity. SCS requests a January 1, 1984 effective date and waiver of those portions of § 35.13(a)(2) of the Commission's regulations not specifically satisfied by the instant filing.[2]

Background

The proposed Contract would replace the currently effective Intercompany Interchange Contract dated October 28, 1981, and accepted for filing by order dated May 27, 1982, in Docket No. ER82-544-000.[3] Pursuant to a settlement in that proceeding, SCS agreed to file by November 1, 1983, a new contract applicable for the 1984 calendar year and subsequent years, to become effective on January 1984, subject to refund if a hearing became necessary. The basic accounting, payment, and transaction concepts are the same in the 1984 Contracts as those reflected in the 1982 Contract. The 1984 Contract continues to use a formulary rate to calculate charges for capacity and energy transactions between the Operating Companies. The Manual contains the formulary rate methodology

[1] *See* Attachment for rate schedule designations.

[2] Specifically, SCS requests waiver of that portion of § 35.12(a)(2) which requires compliance with § 35.13(c) and (h)(37) and any other portion of § 35.13(a)(2) not otherwise satisfied.

[3] *Southern Company Services, Inc.*, Docket No. ER82-54-000, 19 FERC ¶ 62,476 (1982) (Letter Order).

used to calculate charges for service provided under the Contract. Application of the formulary rate is to be shown on informational schedules which are to be revised yearly. SCS asserts that these yearly informational filings are not rate changes which would permit suspension under the Federal Power Act.[4]

The 1984 formula methodology contains a number of minor clarifications and three significant revisions. Those three amendments are as follows: (1) The Operating Companies' peak period load ratios used to calculate reserve equalization payments would be determined based upon a three-year historical average rather than on the prior year's monthly peak demands; (2) the income tax calculation would be revised to reflect the effects of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA); and (3) the calculation of the embedded capacity cost would include pumped storage hydroelectric capacity.

Notice of SCS's filing was published in the Federal Register with comments due by November 23, 1983. On that date, a group of Alabama Municipalities [5] and the Alabama Municipal Electric Authority ("Municipalities") jointly moved to intervene. As wholesale customers of Alabama Power Company, the Municipalities assert that they may be adversely affected by a Commission order in this docket. In particular, the Municipalities challenge the rate of return on common equity reflected in the formula rates. The Municipalities request that the filing be permitted to take effect only if subject to refund and that the filing be set forth for hearing.

On November 30, 1983, Oglethorpe Power Corporation (Oglethorpe) filed an untimely motion to intervene.[6] Oglethorpe is an electric membership corporation with 39 members, each of which is an electric membership cooperative operating in Georgia. Oglethorpe furnishes power to its members through several generating resources that it owns jointly with Georgia Power Company (GPC), and through partial requirements purchases from GPC. Oglethorpe asserts that the interchance transactions covered by the proposed Contract directly affect the rates charges by GPC to Oglethorpe and thus may adversely affect Oglethorpe. It is Oglethorpe's position that the proposed formula methodology will produce unreasonable rates and charges.

On December 7, 1983, the Municipal Electric Authority of Georgia (MEAG) also filed an untimely motion to intervene.[7] MEAG supplies bulk electric power to its 47 members[8] from its ownership interest in certain nuclear and coal-fired generating resources, as well as from supplemental partial requirements purchases from GPC. MEAG states that costs incurred by GPC as to its pool and non-pool transactions will be determined by the proposed Contract. If the Contract serves to increase costs to GPC, MEAG will be directly affected as GPC seeks to pass such increased costs on to its partial requirements customers. Accordingly, if this proceeding is set for hearing, MEAG request that it be permitted to intervene. However, MEAG further requests that the Municipalities' motion for a hearing be denied on the grounds that no showing of facts or law supporting the motion has been advanced, as required by the Commission's Rules. MEAG suggests that the Municipalities more appropriately should have requested an extension of time to permit sufficient review of the SCS filing. Alternatively, MEAG requests that the Commission convene a conference of all intervenors, SCS, and the Commission's trial staff in order to identify the grounds upon which a hearing should be granted.

Discussion

Pursuant to Rule 214(c) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motion to intervene serves to make the Municipalities parties to this proceeding. In addition, we find, although not without some reservations, that good cause exists to grant the untimely interventions by Oglethorpe and MEAG. While we do not wish to discourage settlement negotiations at any stage, we cannot condone a situation in which a potential intervenor disregards an established deadline in anticipation of an ultimate settlement or the absence of other interventions. The period provided for public comments is established in recognition of the limited time available for the Commission to evaluate a filing as well as the need to adequately review such comments as are received. The responsibility must be on a would-be intervenor to preserve his or her rights in a timely manner. Nonetheless, given the relatively short delay in filing and the early stage of this proceeding, the late interventions should not prejudice any party or unduly delay this case.

We initially note that waiver of certain portions of § 35.13 of the regulations was previously granted with regard to SCS's prior submittal in Docket No. ER82-54-000. In the instant case, none of the intervening parties has objected to the requested waiver. Given the fact that the outstanding information required by § 35.13(a)(2) has limited application to interchange transactions and pricing mechanisms such as those contemplated under the proposed Contract, we find that good cause exists to waive those portions of § 35.13 not fully complied with. However, we take this opportunity to advise the filing parties that, until the revised formulas are determined to be just and reasonable, any future changes resulting from operation of the formulas (including changes in the capacity charges and the variable energy charge components other than fuel costs) must be filed as rate schedule changes. In any event, as acknowledged by the Operating Companies, any change in the fixed components of the formulary rate or in the formulary methodology will constitute a change in rate, requiring a timely filing with the Commission.

Notwithstanding MEAG's opposition to a hearing, our preliminary review of SCS's submittal and the pleadings indicates that the filing has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the submittal for filing and

[4] The Operating Companies acknowledge, however, that under section 205 of the Federal Power Act, changes in the formula or fixed components of the formula, such as return on common equity, do constitute rate changes which require appropriate filings with the Commission.

[5] The Municipalties consist of the following Alabama Cities and Utility Boards: Alexandria City, Dothan, Fairhope, Foley, Lafayette, Lanett, Luverne, Opelika, Piedmont, Sylacauga, Troy, and Tuskegee.

[6] Oglethorpe explains that its motion to intervene was untimely because it believed that an agreement with SCS settling the matters at issue in this docket could be reached and because it believed that there would be no other intervenors in this proceeding.

[7] MEAG states that its motion to intervene was untimely because it had relied upon an informal agreement with SCS and the wholesale customers of the Operating Companies that none of them would seek intervention or protest the new Contract. Upon learning of the Municipalities' motion to intervene and the possibility that a hearing would result in modifications to the Contract, MEAG intervened in order to protect its interests.

[8] MEAG is comprised of the Cities of Adel, Albany, Barnesville, Blakely, Brinson, Buford, Cairo, Calhoun, Camilla, Cartersville, College Park, Commerce, Covington, Doerun, Douglas, East Point, Elberton, Ellavill, Fairburn, Fitzgerald, Forsyth, Fort Valley, Grantville, Griffin, Hogansville, Jackson, LaFayette, LaGrange, Lawrenceville, Mansfield, Marietta, Monroe, Monticello, Moultrie, Newnan, Norcross, Palmetto, Quitman, Sandersville, Sylvania, Sylvester, Thomaston, Thomasville, Washington, West Point, and Whigham, Georgia, as well as the Crisp County Power Commission, Crisp County, Georgia.

we shall suspend its operation as noted below.[9]

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that rate filings would ordinarily be suspended for one day where preliminary review indicates that the rates may be unjust and unreasonable but may not produce substantially excessive revenues as defined in *West Texas*. Our review of SCS's filing indicates that it may not produce substantially excessive revenues. Furthermore, Article IV of the settlement agreement previously approved in Docket No. ER82-54-000 provides that charges under this new Contract would become effective as of January 1, 1984, subject to refund if a hearing was determined to be necessary. As a result, we shall suspend the instant submittal to become effective, subject to refund, on January 1, 1984.

The Commission orders: (A) SCA's request for waiver of outstanding cost support requirements of Part 35 of the Commission's regulations is hereby granted.

(B) SCS's proposed Interchange Contract is hereby accepted for filing and suspended to become effective, subject to refund, on January 1, 1984.

(C) The untimely motions to intervene of Oglethorpe and MEAG are hereby granted.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the proposed Interchange Contract.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. This conference shall be held for purposes of pursuing settlement, defining the scope of this proceeding, and establishing a procedural schedule. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[9] There is insufficient time or reason to grant MEAG's request to convene a post-filing conference before initial Commission action must be taken in this docket. However, at the first prehearing conference convened pursuant to Ordering Paragraph (E) below, the presiding judge may entertain discussion or argument concerning the feasibility of settlement of the appropriate scope of a hearing.

Attachment

Southern Company Services, Inc., Rate Schedule Designation, Docket No. ER84-63-000

Designation and Description

Southern Company Services, Inc.

(1) Rate Schedule FERC No. 63 (Supersedes Rate Schedule FERC No. 55, as supplemented)—Intercompany Interchange Contract

(2) Supplement No. 1 to Rate Schedule FERC No. 63—Allocation Methodology and and Periodic Rate Computation Manual

(3) Supplement No. 2 to Rate Schedule FERC No. 63—Informational Schedules

Alabama Power Company

Rate Schedule FERC No. 162 (Supersedes Rate Schedule FERC No. 154) (Concurs in (1)-(3) above)

Georgia Power Company

Rate Schedule FERC No. 818 (Supersedes Rate Schedule FERC No. 803) (Concurs in (1)-(3) above)

Gulf Power Company

Rate Schedule FERC No. 80 (Supersedes Rate Schedule FERC No. 72) (Concurs in (1)-(3) above)

Mississippi Power Company

Rate Schedule FERC No. 140 (Supersedes Rate Schedule FERC No. 130) (Concurs in (1)-(3) above)

[FR Doc. 84-415 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES84-24-000]

Boston Edison Co.; Application

January 4, 1984.

Take notice that on December 23, 1983, Boston Edison Company (Applicant) filed an application, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of $140,000,000 of short-term debt securities with a maturity of not later than December 31, 1986.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-423 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-150-000]

Columbia Gas Transmission Corp.; Request Under Blanket Authorization

January 4, 1984.

Take notice that on December 23, 1983, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP84-150-000 a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Columbia proposes to transport natural gas on behalf of Eastern Stainless Steel Company, Division of Eastmet Corporation (Eastern Stainless) under the authorization issued in Docket No. CP83-76-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to transport up to 4.1 billion Btu of natural gas per day for Eastern Stainless for a term of one year. Columbia states that the gas to be transported would be purchased from POI Energy, Inc. (POI), by Eastern Stainless and would be used primarily for process manufacturing of stainless steel in Eastern Stainless' Baltimore, Maryland plant.

Columbia states that it has released certain gas supplies of POI's which Eastern Stainless has purchased from POI. Columbia states that these supplies are subject to the ceiling price provisions of section 102, 103 and 107 of the Natural Gas Policy Act of 1978. Columbia indicates that it would receive the gas at existing delivery points in Holmes, Trumbull, Monroe, Medina, Washington, Wayne and Knox counties, Ohio, Indiana County, Pennsylvania, and Raleigh County, West Virginia, and redeliver such gas to Baltimore Gas and Electric Company, the distribution company serving Eastern Stainless.

Further, Columbia states that depending upon whether its gathering facilities are involved, it would charge

either (1) its average system-wide storage and transmission charge, currently 40.11 cents per dt, exclusive of company-use and unaccounted-for gas, or (2) its average system-wide storage, transmission and gathering charge, currently 44.93 cents per dt, exclusive of company-use and unaccounted-for gas. Columbia states that it would retain 2.85 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-484 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-36-000]

Hy-Tech Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 4, 1984.

On December 12, 1983, Hy-Tech Co., c/o Mr. Carl W. Haywood, 2109 Broadview Drive, Lewiston, Idaho 83501, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The hydroelectric facility will be located in Valley County, Idaho. The power production capacity of the facility will be 3,170 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-485 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-37-000]

East Tennessee Natural Gas Co.; Tariff Filing

January 3, 1984.

Take notice that on December 22, 1983, East Tennessee Natural Gas Company (East Tennessee) tendered for filing the following tariff sheet to Original Volume No. 1 of its FERC Gas Tariff to be effective on January 1, 1984:

Original Sheet No. 53

East Tennessee states that the sole purpose of the tariff sheet is to implement the ETS Rate Schedule, applicable to transportation of gas on behalf of East Tennessee's system sales customers pursuant to §§ 157.45 *et seq.*, which gas has been purchased from East Tennessee. The proposed effective date is January 1, 1984.

East Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 11, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-486 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA84-1-53-002 (PGA84-1) and TA84-1-53-001 (GRI84-1)]

K N Energy, Inc.; Filing

January 3, 1984.

Take notice that on December 23, 1983, K N Energy, Inc. (K N) tendered for filing, in compliance with Ordering Paragraphs (B)(1) and (B)(2) of the Commission's Order issued November 29, 1983, the following:

(1) Substitute Eighteenth Revised Sheet No. 4;

(2) Revised Schedule 1, Revised Schedule 2 page 1 of 5, and Revised Schedule 2 page 5 of 5;

(3) New Schedule 1A; and,

(4) Exhibits A through I providing the additional information requested by the Commission in Ordering Paragraph (B)(2).

On November 29, 1983, the Commission issued an "Order Accepting For Filing And Suspending Proposed Tariff Sheets, Subject To Refund And Conditions, And Ordering Consolidation" in Docket No. TA84-1-53-000 (PGA84-1). K N has filed a Request for Rehearing asking the Commission to delete Ordering Paragraph (B)(1)(b) so as to allow K N to amortize the balance associated with revalued company-owned production over 31 months, as requested in its application, rather than 12 months as ordered by the Commission in its November 29, 1983 Order.

Pending action on K N's Request for Rehearing and in compliance with Ordering Paragraph (B)(1) and (B)(2) of the Commission's Order issued November 29, 1983, K N submitted for filing under protest the information listed above.

K N states that this revised filing reflects an additional increase of 39.82¢ to comply with the Commission's Order requiring a 12 month, rather than a 31 month, amortization period associated with revalued company-owned production and a decrease of (0.19¢) per Mcf in projected gas cost due to certain NGPA well classification adjustments. In compliance with the Commission's

November 29, 1983 Order, K N re-examined its company-owned production to determine current well status qualifications for purposes of NGPA pricing classification. Pursuant to that examination, certain minor adjustments were made to the well classifications for company-owned production, as described in the exhibits attached to the filing, resulting in a net reduction in projected gas cost of (0.19¢) per Mcf. The combined tariff revisions implementing the 12 month amortization period and the various well classification adjustments result in a total additional net increase in rates under this compliance filing of 39.63¢ per Mcf.

Also submitted for filing under protest is Substitute Nineteenth Revised Sheet No. 4, reflecting the increase in the GRI surcharge from $0.0072 per Mcf to $0.0125 per Mcf effective January 1, 1984, as original filed in Docket No. TA84-1-53-001 (GRI84-1).

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-497 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF-84-97-000]

McDonalds' Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 4, 1984.

On December 12, 1983, McDonalds' Corporation of McDonalds' Plaza, Oak Brook, Illinois 60521, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations.

The topping-cycle cogeneration facility will be located at 619 Broadway, Chula Vista, California 92010. The primary energy source will be natural gas. The power production capacity will be 65 kilowatts. Heat recovered from the exhaust and water jacket of the spark ignition engine will be used to heat hot water, and to provide space heating or cooling.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-498 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF84-103-000]

Metropolitan Denver Sewage Disposal District No. 1; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 4, 1984.

On December 15, 1983, Metropolitan Denver Sewage Disposal District No. 1 of 6450 York Street, Denver, Colorado 80229, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located in Commerce City, Colorado. The primary energy source will be biomass, in the form of digester gas produced as a by-product of the anaerobic digestion of municipal wastewater sludges. The power production capacity will be 5,520 kilowatts, initially, and may be expanded to a total capacity of 8,280 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-427 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP81-61-014 and RP82-60-012]

Michigan Wisconsin Pipe Line Co.; Service Agreement Filing

January 3, 1984.

Take notice that on December 22, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing a revised Service Agreement with one of its customers, Wisconsin Fuel and Light Company (Wisconsin Fuel), to be substituted for that filed herein on December 2, 1983, together with service agreements with fifty-four other customers.

Michigan Wisconsin states that the substitute service agreement does not reflect the increase in the Wisconsin Fuel Annual Contract Quantity which Wisconsin Fuel had earlier requested, because Wisconsin Fuel no longer desires such increase, due to changed marketing conditions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 11, 1984. Protests will be considerd by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-433 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-15-000 (PGA84-1 and IPR84-1)]

Mid Louisiana Gas Co.; Proposed Change in Rates

January 3, 1984.

Take notice that on December 23, 1983, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff, Forty-eighth Revised Sheet No. 3a and Ninth Revised Sheet No. 3c to become effective February 1, 1984.

Mid Louisiana states that the purpose of the filing of Forty-eighth Revised Sheet No. 3a is to reflect a Purchased Gas Cost Current Adjustment and a Purchased Gas Cost Surcharge resulting in a rate after current adjustment of 477.25 cents. The filing is being made in accordance with Section 19 of Mid Louisiana's FERC Gas Tariff, and the Purchased Gas Cost Current Adjustment reflects rates payable to Mid Louisiana's suppliers during the period February 1, 1984 through July 31, 1984.

Copies of the filing have been mailed to Mid Louisiana's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-433 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-85-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 4, 1984.

Take notice that on November 22, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14303, filed in Docket No. CP84-85-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 3,300 Mcf of gas per day and 1,204,500 Mcf of gas per year, for the account of AIRCO Carbon Company (AIRCO), to National Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to AIRCO at AIRCO's facilities in St. Marys, Pennsylvania, pursuant to the terms of the gas transportation agreement dated September 19, 1983 (transportation agreement). Supply states the current transportation rate is 29.14 cents per Mcf plus 2.0 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-1.

Supply states that currently the transportation agreement does not provide for an added incentive charge (AIC); however, during the term of this service an AIC of 5.0 cents per Mcf would be applicable to it. It is indicated that at such time, the transportation charge by Supply for this service would be in accordance with its T-2 transportation rate schedule, which is presently 34.14 cents per Mcf plus 2.0 percent retainage for shrinkage. AIRCO would use the gas transported by Supply for any eligible end use as set forth in § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation which would commence on January 17, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective September 19, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-433 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-101-000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 4, 1984.

Take notice that on November 29, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14303, filed in Docket No. CP84-101-000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83-4-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 1,500 Mcf of gas per day and 547,500 Mcf of gas per year, for the account of Goodyear Tire and Rubber Company (Goodyear), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Goodyear at Goodyear's facilities in Niagara Falls, New York, pursuant to the terms of the gas transportation agreement dated September 13, 1983 (transportation agreement). Supply states that the current transportation rate is 29.14 cents per Mcf plus 2.0 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T-1. In addition, the current transportation rate charged by Distribution is currently 0.88 cent per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Goodyear is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Supply states that currently the transportation agreement does not provide for an added incentive charge

(AIC); however, during the term of this service an AIC of 5.0 cents per Mcf would be applicable to it. It is indicated that at such time, the transportation charge by Supply for this service would be in accordance with its T–2 transportation rate schedule, which is presently 34.14 cents per Mcf plus 2.0 percent retainage for shrinkage. Goodyear would use the gas transported by Supply for any eligible end use as set forth in § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on January 11, 1983, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective September 13, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–469; Filed 1–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–135–000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 4, 1984.

Take notice that on December 15, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14303, filed in Docket No. CP84–135–000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP83–4–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 280 Mcf of gas per day and 102,200 Mcf of gas per year, for the account of Darling and Company (Darling), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Darling at Darling's facilities in Cheektowaga, New York, pursuant to the terms of the gas transportation agreement dated October 10, 1983 (transporation agreement). Supply states that the current transportation rate is 29.14 cents per Mcf plus 2.0 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T–1. In addition, the current transportation rate charged by Distribution is currently 0.88 cent per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Darling is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7—Gas), it is asserted.

Supply states that currently the transportation agreement does not provide for an added incentive charge (AIC); however, during the term of this service an AIC of 5.0 cents per Mcf would be applicable to it. It is indicated that at such time, the transportation charge by Supply for this service would be in accordance with its T–2 transportation rate schedule, which is presently 34.14 cents per Mcf plus 2.0 percent retainage for shrinkage. Darling would use the gas transported by Supply for boiler fuel, which is a qualified end use pursuant to Section 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on February 8, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective October 10, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84–469 Filed 1–6–84; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP84–136–000]

National Fuel Gas Supply Corp.; Request Under Blanket Authorization

January 4, 1984.

Take notice that on December 15, 1983, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14303, filed in Docket No. CP84–136–000, a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for an eligible end user under the authorization issued in Docket No. CP84–4–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Supply proposes to transport up to 760 Mcf of gas per day and 277,400 Mcf of gas per year, for the account of Sorrento Cheese Company, Inc. (Sorrento), to National Fuel Gas Distribution Corporation (Distribution) which, in turn, would deliver the gas to Sorrento at Sorrento's facilities in Buffalo, New York, pursuant to the terms of the gas transportation agreement dated as of October 10, 1983 (transportation agreement). Supply states that the current transportation rate is 29.14 cents per Mcf plus 2.0 percent retainage for shrinkage which is in accordance with its transportation Rate Schedule T–1. In addition, the current transportation rate charged by Distribution is currently 0.88 cent per Mcf plus the surcharge to reflect the tax rates applicable within the municipality where Sorrento is taking service plus 2.5 percent of the gas for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7–Gas), it is asserted.

Supply states that currently the transportation agreement does not provide for an added incentive charge (AIC); however, during the term of this service an AIC of 5.0 cents per Mcf would be applicable to it. It is indicated that at such time, the transportation charge by Supply for this service would be in accordance with its T–2 transportation rate schedule, which is presently 34.14 cents per Mcf plus 2.0 percent retainage for shrinkage.

Sorrento would use the gas transported by Supply for boiler fuel, which is a qualified end use pursuant to § 157.209(e)(2) of the Regulations, it is asserted. Supply states that no new facilities are necessary to effectuate the proposed transportation. It is stated that the proposed transportation would commence on February 7, 1984, and terminate at 11:59 p.m. on June 30, 1985, or upon termination of the contract which term is for 3 months, effective October 10, 1983, and month to month thereafter, whichever occurs first.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-491 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-170-000]

Puget Sound Power & Light Co.; Tariff Change

January 4, 1984.

The filing Company submits the following:

Take notice that Puget Sound Power & Light Company of Bellevue, Washington (Puget Power), on December 21, 1983, tendered for filing a change in rates applicable to electric service rendered to nine wholesale customers under its existing Wholesale for Resale Power Contracts. Puget's filing would change both of its wholesale rate schedules, one for large customers and the other for small customers. Puget Power states that the proposed changes would increase revenues from the nine wholesale customers by $235,014 based on the twelve-month period ending June 30, 1983.

Puget Power states that the reason for the proposed rate increase is that the earned rate of return of the wholesale customers for the 12 months ended June 30, 1983, test year was only .5 per cent, which is far below the level of 12.62 per cent authorized in Docket No. ER83-92-000.

Copies of the filing were served upon Puget's wholesale customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-494 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER84-169-000]

Southern California Edison Co; Filing

January 4, 1984.

The filing Company submits the following:

Take notice that on December 20, 1983, Southern California Edison Company (Edison) tendered for filing a notice of change of rates for transmission service as embodied in Edison's agreements with the following entities:

	Rate schedules FERC No.
1. City of Anaheim	130
2. City of Riverside	129

Edison is requesting authorization to refund certain overcollections under these rate schedules:

	Rate schedule FERC No.	Effective date
1. City of Anaheim	130	Jan. 1, 1983.
2. City of Riverside	129	Jan. 1, 1983.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 19, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-495 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-28-001]

Texas Gas Transmission Corp.; Filing

January 3, 1984.

Take notice that on December 23, 1983, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following tariff sheets to its FPC Gas Tariff:

Third Revised Volume No. 1

Forty-Fourth Revised Sheet No. 7
Seventh Revised Sheet No. 7-A

Original Volume No. 2

Eighteenth Revised Sheet No. 333
Sixteenth Revised Sheet No. 362
Seventeenth Revised Sheet No. 363
Sixteenth Revised Sheet No. 365
Seventh Revised Sheet No. 643
Sixth Revised Sheet No. 959
Fifth Revised Sheet No. 982
Fourth Revised Sheet No. 1005

Texas Gas states that the revised tariff sheets are being submitted pursuant to the Commission's order modifying and approving stipulation and agreement (Order) issued October 4, 1983 in Docket No. RP79-28. The Order prescribes the rate and accounting treatment to be followed by interstate pipelines for amounts received pursuant to the Stipulation and Agreement in Docket No. RP79-28 which resolves the *Marine Construction Antitrust Litigation* M.D.L., Docket No. 417 (E.D. La).

The Order requires Texas Gas to reduce rate base for amounts received by crediting Account 108 and to implement the related reduction in rates through a separate filing in conjunction with its next change in rates within six

months following the date of rate base reduction. Texas Gas received $421,763.39 and made the appropriate rate base reduction on November 30, 1983.

The rate reduction proposed in the filing is applied to Texas Gas' currently effective base tariff sales and transportation rates. The currently effective base tariff rates are based on the settlement cost of service in Docket No. RP82-74 effective November 1, 1982, reduced for the tracking of advance payments in Texas Gas' August 1983 PGA filing.

Texas Gas requests that the revised tariff sheets become effective February 1, 1984, which date is approximately thirty (30) days after receipt of the filing by the Commission, and which coincides with the proposed effective date of Texas Gas' next semiannual purchased gas adjustment filing.

Attached to the filing are schedules showing the computation of the changes in the rates and the effect of such changes upon the jurisdictional customers of Texas Gas.

Copies of the filing are being mailed to all of Texas Gas' jurisdictional customers and interested state commissions. A copy of the filing is available for public inspection in the office of Texas Gas at Owensboro, Kentucky.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-500 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-18-003]

Texas Gas Transmission Corp.; Proposed Changes in FPC Tariff

January 3, 1984

Take notice that Texas Gas Transmission Corporation, on December 23, 1983, tendered for filing Forty-fifth Revised Sheet No. 7 and Ninth Revised Sheet No. 7-B to its FBC Gas Tariff, Third Revised Volume No. 1. These sheets are being issued to reflect changes in the cost of purchased gas pursuant to Texas Gas's Purchased Gas Adjustment Clause.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protect said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 2.11 and 2.14 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before January 12, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-501 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF84-73-000]

Turbo Gas and Electric, Ltd.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

January 4, 1984.

On November 28, 1983, Turbo Gas and Electric, Ltd., (Applicant) of 91 Newbury Street, 3rd floor, Boston, Massachusetts 02116, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The Applicant proposes an internal combustion engine, topping cycle cogeneration facility to be located at Moss Landing, California. The primary energy source to the facility will be natural gas. The electric power production capacity will be 730 kilowatts. Heat recovered from engine jacket water and exhaust gases will be used to preheat gas entering a turbo expander facility. The turbo expander will drive a generator to produce electric power. Installation of the facility will begin in 1984.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considerd by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-502 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF84-75-000]

Turbo Gas and Electric, Ltd.—Project I; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

January 4, 1984.

On November 28, 1983, Turbo Gas and Electric, Ltd. (Applicant) of 91 Newbury Street, 3rd Floor, Boston, Massachusetts 02116, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

Applicant proposes to construct a 1000 kilowatt turbo expander facility which will use as its primary energy source the energy made available by depressurization of high pressure transmission gas to low pressure distribution gas. The high pressure gas will be expanded in a turbine driving an induction generator. Applicant characterizes the energy source as "waste." The facility will burn some natural gas to preheat the high pressure gas prior to entering the expander, in order to prevent freezing of pipes and the formation of hydrates. According to the Applicant, the energy input to the facility from the natural gas burned represents no more than 25% of the total energy input to the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and

214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considerd by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-493 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP72-133-022 (TA84-1-11-000)]

United Gas Pipe Line Co.; Change in Rates

January 3, 1984.

Take notice that on December 21, 1983, United Gas Pipe Line Company (United) tendered for filing Substitute Alternate Sixty-fourth Revised Sheet No. 4.

On November 30, 1983, United filed in the captioned docket Sixty-fourth Revised Sheet No. 4, Alternate Sixty-fourth Revised Sheet No. 4, Eighth Revised Sheet Nos. 4-A and 4-B, Twelfth Revised Sheet No. 4-C and Revised Original Sheet No. 4-D to its FERC Gas Tariff, First Revised Volume No. 1, Reflecting PGA increases and surcharge adjustments to become effective on January 1, 1984.

United has now discovered that Alternate Sixty-fourth Revised Sheet No. 4 incorrectly stated the Current Effective Rate, and therefore requests that Substitute Alternate Sixty-fourth Revised Sheet No. 4 be substituted for Alternate Sixty-fourth Revised No. 4 with United's November 30, 1983 filing. United states that this tariff sheet does not propose any change to United's tariff sheet other than the substitution of the revised sheet.

Also enclosed in the filing are Alternate Twelfth Revised Sheet No. 4-C and Alternate Revised Original Sheet No. 4-D, an alternate position for United's transportation rates which was omitted in United's filing of November 30, 1983. United requests any waivers be granted to permit these alternate transportation rates to become effective concurrently with Substitute Alternate Sixty-fourth Revised Sheet No. 4.

United states that the Base Tariff Rate on Substitute Alternate Sixty-fourth Revised Sheet No. 4, Alternate Twelfth Revised Sheet No. 4-C and Alternate Revised Original Sheet No. 4-D would be applicable under the Stipulation and Agreement for the period commencing October 1, 1983, and pending action on such agreement would be effective on an interim basis, subject to refund, under the Interim Settlement submitted by United on October 30, 1983. These rates incorporate the rates reported on Appendix F, page 1 of 9, of the Rate Report dated November 14, 1983, pursuant to Article I and Article II of the Stipulation and Agreement filed October 31, 1983, in Docket Nos. RP82-57 and RP83-52, and the gas cost and surcharge components underlying United's PGA in the captioned docket. United states that copies of the filing are being served on each of its customers and on interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before January 11, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 84-502 Filed 1-6-84; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $160,000 (plus accrued interest) in settlement agreement funds to members of the public. The funds are being held in escrow following the settlement of administrative and judicial proceedings involving New York Petroleum, Inc., an operator of crude oil producing properties located in Louisiana and Mississippi.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the Federal Register and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0023.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a settlement agreement entered into by New York Petroleum, Inc. (NYP), which settled possible pricing violations in the firm's sales of crude oil during the period September 1, 1973 through November 1, 1982.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by NYP pursuant to the settlement. The DOE has tentatively decided that the funds should be distributed in a two-stage refund procedure of the type implemented by the DOE with respect to certain other crude oil settlement funds. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the Federal Register, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: December 19, 1983.
George B. Breznay,
Director, Office of Hearings and Appeals.
December 19, 1983.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Name of Case: New York Petroleum, Inc.
Date of Filing: August 1, 1983.
Case Number: HEF-0023.

Under the procedural regulations of the Department of Energy (DOE), the Office of Special Counsel (OSC) of the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the OSC has filed a Petition for the Implementation of Special Refund Procedures in connection with a judicially sanctioned settlement between the DOE and New York Petroleum, Inc. (NYP). Under the terms of the settlement, NYP remitted to the DOE the sum of $160,000 which, with accrued interest, is now being held in an escrow account under the DOE's jurisdiction. The OSC's present petition requests the Office of Hearings and Appeals to institute proceedings for the appropriate distribution of the escrowed funds.

I. Background

During the period October 1973 through December 1975, NYP was the operator of crude oil producing properties located in Adams County, Mississippi and Point Coupee Parish, Louisiana. NYP was therefore a "producer" of crude oil as that term was defined in 10 CFR 212.31 of the DOE Mandatory Petroleum Price Regulations and was subject to the provisions of 10 CFR Part 212, Subpart D, which governed the first sale of domestic crude oil.[1]

On July 29, 1977, the Federal Energy Administration (FEA), a predecessor of the DOE, issued a Remedial Order to NYP in which it concluded that during the period October 1973 through December 1975 NYP had violated the crude oil producer price regulations at 10 CFR Part 212, Subpart D. Specifically, the FEA found that NYP had miscertified crude oil that it sold to Ashland Oil, Inc. (Ashland) and Koch Oil Company (Koch) and as a result overcharged those two firms by a total of $283,130.43 in sales of crude oil.[2]

The NYP Remedial Order was substantially affirmed by the Office of Hearing and Appeals in a Decision and Order issued on January 19, 1979. *New York Petroleum Corp.*, 3 DOE ¶80,111 (1979).[3] Shortly thereafter, NYP filed suit against the DOE, Ashland, and Koch in the United States District Court for the Southern District of Mississippi seeking to overturn the Remedial Order. *New York Petroleum, Inc.* v. *DOE*, Civil Action No. W79-0019(B) (S.D. Miss.). Prior to any action by the court on the merits of the suit, DOE and NYP negotiated a proposed consent agreement in which NYP agreed to remit the sum of $160,000 to the DOE in settlement of the violations alleged in the Remedial Order. The proposed settlement also relieved NYP of any potential liability for any and all violations of the DOE regulations in connection with the production and sale of crude oil from the Mississippi and Louisiana properties specified in the Remedial Order during the period September 1, 1973 through November 1, 1982 (the Settlement agreement period). On December 9, 1982, a federal magistrate dismissed the DOE as a party in the district court proceeding after finding that the proposed settlement was in the best interests of all the parties and in the public interest. The Order of Dismissal issued by the magistrate required NYP to remit to the DOE the sum of $160,000, to be held in escrow for ultimate disposition by the DOE.[4] Payment of the $160,000 was made to the Controller of the DOE for deposit in an escrow account in January 1983.

On August 1, 1983 the OSC filed its petition with this Office to establish a Subpart V proceeding. The OSC asserts in its petition that, although Ashland and Koch were originally contemplated as recipients of the refunds under the Remedial Order, this remedy would now be inappropriate in light of the decontrol of crude oil and refined petroleum products on January 28, 1981. The OSC further asserts that, as refiners, Ashland and Koch received benefits under the DOE Crude Oil Entitlements Program.[5]

[1] Prior to February 1, 1976, the provisions of 10 CFR Part 212, Subpart D generally required crude oil producers to determine the first sale price of domestic crude oil from a particular property in accordance with the base production control level (BPCL) for that property, i.e., the total number of barrels of crude oil produced and sold from the property in the same month of 1972. Crude oil production from a property which did not exceed the BPCL (referred to as "old" oil) was generally subject to the ceiling price rule set forth in 10 CFR 212.73, whereas crude oil production which exceeded the sum of the BPCL and any deficiency which had accumulated was deemed "new" oil which could be sold without regard to the ceiling price rule. In addition, if new oil was sold from a property in a particular month, additional volumes of crude oil could be sold as "released" oil at prices in excess of the applicable ceiling price level. The term "property" for the purpose of computing the BPCL was defined in 10 CFR 212.72 as the "right to produce crude oil which arises from a lease or a fee interest."

Furthermore, during the period November 10, 1973 to January 31, 1976, the first sale of domestic crude oil produced from a stripper well property was exempt from the ceiling price rule. Under the applicable regulatory provisions, a "stripper well lease" was defined as "a 'property' whose average daily production of crude petroleum and petroleum condensates, including natural gas liquids, per well did not exceed 10 barrels per day during the preceding calendar year." *See* 6 CFR 150.54(o)(2) and 10 CFR 210.32.

[2] In the Remedial Order issued to NYP, the FEA determined that during the period from October 1973 through December 1975, NYP erroneously classified four crude oil producing wells located in the H.B. Drane area of Mississippi as four separate properties. As a result of that erroneous classification, FEA determined that NYP sold crude oil to Ashland from the H.B. Drane property as either stripper well crude oil or "new" and "released" crude oil when in fact that crude oil was subject to the ceiling price rule. The FEA also found that during 1974 and 1975 NYP sold crude oil produced from the Adam and J. C. Bergeron properties to Koch at market prices, notwithstanding the fact that during those years those properties did not qualify as stripper well properties and their production did not qualify as "new" oil. Finally, FEA found that, during certain portions of the period between December 1973 and February 1975, NYP sold crude oil from the Wilson Estate, D. D. Angelloz and Stella Bertoniere properties as "new" and "released" crude oil without regard to the cumulative deficiencies which existed for those properties.

[3] In that Decision, we found that beginning in 1974 the J. C. Bergeron property qualified as a stripper well lease and that the amount of the violation found in the Remedial Order should be reduced accordingly by $16,367.43. *New York Petroleum Corp.*, 3 DOE at 80,563-9. In all other respects, the NYP Appeal was denied.

[4] In February 1983, Ashland and Koch filed a motion with the court asserting a counterclaim against NYP. In addition, they brought a separate suit against the DOE seeking payment of the settlement funds to them. The firms' motion was subsequently denied on the grounds of untimeliness and the suit against the DOE was dismissed on the grounds that the two refiners had not exhausted their administrative remedies. *New York Petroleum, Inc.* v. *Ashland Oil, Inc.*, 3 Fed. Energy Guidelines ¶28,441 (S.D. Miss. 1983).

[5] The Entitlements Program, 10 CFR 211.67, was part of the comprehensive program administered by the DOE for the mandatory pricing and allocation of crude oil, residual fuel oil and refined petroleum products. Subsequent to the imposition of petroleum price controls, there developed a price disparity between foreign crude and uncontrolled domestic crude oil, and price-controlled "old" oil, which had an unequal effect on refiners because some refiners had greater access to the inexpensive old oil than others. Firms which had little or no access to price-controlled oil were forced to purchase uncontrolled domestic or similarly expensive foreign crude oil. As a result, many small, independent refiners, with little or no access to price-controlled domestic reserves, suffered crude oil acquisition costs so high relative to the industry as a whole that those costs threatened to put them out of business. To remedy these imbalances, the DOE established the Entitlements Program. 39 FR 31630 (1974); 39 FR 39749 (1974). The Entitlements Program required refiners with proportionately greater access to old oil to make cash payments, in the form of the

Continued

that mitigated the effects of any crude oil overcharges, and that in any case Ashland and Koch were in a position to pass through to their customers any increased costs they incurred. Thus, according to the OSC, the parties actually injured and the amount of their injury cannot be readily determined and, under 10 CFR 295.281, a Subpart V petition requesting the Office of Hearings and Appeals to implement special refund proceedings is appropriate.

II. Jurisdiction

In previous Decisions, we have discussed the jurisdictional prerequisites for petitions for the implementation of special refund procedures. *See, e.g., Office of Enforcement,* 8 DOE ¶ 82,515 (1981); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*); *Office of Special Counsel,* 9 DOE ¶ 82,538 (1982) (hereinafter cited as *Tenneco*). The Subpart V process is to be used in situations where DOE is unable to readily identify persons who are entitled to refunds or to readily ascertain the amounts that such persons are entitled to receive as a result of enforcement proceedings. 10 CFR 205.280.

Subpart V authorizes the Office of Hearings and Appeals, upon request by the appropriate enforcement official, to fashion special procedures to distribute moneys obtained as part of settlement agreements. 10 CFR 205.281, 205.282. This special refund process was established as part of an overall regulatory program which was intended to implement several different statutes. Congress provided for mandatory allocation and price regulations for crude oil, residual fuel oil, and refined petroleum products in the Emergency Petroleum Allocation Act of 1973 (EPAA), 15 U.S.C. 751 *et seq.* (1976). The authority to enforce regulations issued under the EPAA was granted by Section 5 of the EPAA, which incorporated enforcement authorities established in the Economic Stabilization Act (ESA), 12 U.S.C. 1904 note (1970); EPAA, 5(a), 15 U.S.C. 754(a). The statutory authority to enforce the regulations governing the allocation and pricing of petroleum products was delegated to the Administrator of the Federal Energy Administration, and subsequently to the Secretary of Energy. Federal Energy Administration Act (FEAA), 5, 15 U.S.C. 765 (1974); Department of Energy Organization Act (DOE Act), 301(a), 42 U.S.C. 7151(a) (1979). To carry out these statutory mandates, the regulations of the Cost of Living Council, the Federal Energy Office, the Federal Energy Administration, and the DOE provided throughout the existence of the price control program for the issuance of remedial orders "requiring a person to cease a violation or to eliminate or compensate for the effects of a violation, or both." 6 CFR 155.81(b) (1973); 10 CFR 205.2 (1974) (defining "remedial order"). A settlement agreement of the type entered into by the OSC and NYP and approved by the magistrate in his Order of Dismissal is in effect a consent order and thus has the same force and effect as a remedial order, except that there is no finding of liability for regulatory violations. *See* 10 CFR 205.199J.

As we have noted in previous Subpart V Decisions, restitution is designated to accomplish two purposes: Disgorgement of the fruits of a regulatory violation from the wrongdoer, and distribution of refunds to persons injured by the regulatory violation. *See generally Vickers; see also Saunder* v. *DOE,* 648 F. 2d 1341 (Temp. Emer. Ct. App. 1981). The latter objective—the distribution of refunds to overcharged persons—furthers the specific EPAA goal of providing for the "equitable distribution of * * * refined petroleum products at equitable prices * * * among all users." 15 U.S.C. 753(b)(1)(F). Subpart V offers a means of compensating parties who, because they either lack the resources or do not have a sufficient financial stake in the outcome to institute private lawsuits under Section 210 of the ESA, have suffered injuries which would otherwise go unredressed. The Subpart V process is also an efficient administrative mechanism for returning alleged overcharges to injured parties because it eliminates the need for long and costly court actions.

After reviewing the administrative and judicial record developed in this case, we have concluded that the implementation of a Subpart V proceeding is appropriate here. The NYP enforcement proceedings which preceded the judicially approved settlement concerned specific violations over periods of time extending from October 1973 through December 1975 with respect to NYP's crude oil sales from specified properties to two first purchasers (Ashland and Koch). While the two first purchasers of NYP crude oil have been identified, there nevertheless remains a significant degree of difficulty in identifying the parties who were ultimately injured and ascertaining the level of refunds which they should receive. We have explained the reasons for this finding in earlier Subpart V proceedings involving settlements of alleged crude oil violations. In *Office of Enforcement,* 9 DOE ¶ 82,521 (1982) (hereinafter cited as *Alkek*), we observed that the effects of regulatory violations involving the miscertification of crude oil were spread equally among all domestic refiners and arguably to consumers nationwide due to the operation of the DOE's Crude Oil Entitlements Program, 10 CFR 211.67. *See Alkek,* 9 DOE at 85,133. In the present case this would be true whether Koch and Ashland refined the allegedly miscertified crude oil themselves or sold it to other refiners. In either event, the ultimate refiner would report in its monthly reports to the DOE the improperly certified crude oil, and that incorrect figure would then have been used to calculate the domestic old oil supply ratio ("DOSR") and the reporting refiner's entitlements position. *See generally* 10 CFR 211.67.

Furthermore, until January 28, 1981, crude oil and refined petroleum products were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to adversely affected purchasers through price rollbacks. However, on that date the President exempted crude oil and all refined petroleum products from the DOE regulatory program. Exec. Order No. 12287, 46 FR 9909 (January 30, 1981). As a result of decontrol, price rollbacks can no longer be used to refund moneys to purchasers who were overcharged in the past. Therefore, to refund money to those parties who were affected adversely by violations of the regulations, a determination must generally be made regarding the extent to which the first purchasers absorbed any overcharges or passed the higher costs through to their customers by raising their own sales prices. Under these circumstances, we believe that Subpart V provides the most useful mechanism to refund money to persons who were likely to have been injured by pricing violations. The Office of Hearings and Appeals therefore has decided to exercise jurisdiction over the funds which are the subject of the OSC's Petition for Implementation of Special Refund Procedures in the case of NYP.

III. Proposed Refund Procedures

In view of the objectives expressed in the statutes and regulations discussed above, the procedures to be implemented in this case should, to the maximum extent practicable, provide for the distribution of the settlement funds

purchase of entitlements, to refiners with less access to price-controlled oil. The program was designed to restore the competitive viability of the refining industry by generally equalizing among all domestic refiners the benefit associated with access to the lower-priced domestic crude oil.

to parties who were adversely affected by any regulatory violations that may have occurred. With this in mind, we have concluded that in evaluating claims for refunds that are based upon purchases of crude oil from NYP, we should adopt a two-stage special refund procedure of the type implemented with respect to the 24 crude oil settlement funds in the *Alkek* proceeding and the 33 crude oil settlement funds in a related proceeding. *Office of Enforcement*, 9 DOE ¶ 82,553 (1982) (hereinafter cited as *Adams*). Under the two-stage refund procedure we propose to implement, the settlement funds will first be distributed among applicants who successfully establish in their Applications for Refund that they suffered a particularized injury that was not redressed by the regulatory system. For example, a firm that purchased and refined NYP crude oil prior to November 1, 1974, the first month of the Entitlements Program, could be a claimant. *See Alkek*, 9 DOE at 85,137. In addition, a successful applicant must demonstrate actual injury—i.e., that the effects of the alleged regulatory infraction were not simply passed through to its customers in the form of higher prices for its refined products. *See Tenneco Oil Co./Plateau, Inc.*, 10 DOE ¶ 85,015 (1982) (demonstration of injury required to qualify for refund above threshold level).

We also propose to establish a rebuttable presumption that spot purchasers of crude oil from NYP were not injured by NYP's pricing practices. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982) (*Amoco*). In that Decision, we observed that spot purchasers tend to have considerable discretion in making purchases and are therefore not likely to make spot market purchases at higher prices were they not able to pass through those higher prices to their own customers. We believe that the same rationale is applicable to this proceeding, and we therefore propose to require spot purchasers to submit additional evidence sufficient to establish that they were unable to recover the prices they paid to NYP.

To the extent that funds remain in the refund pool after all successful applicants are paid in the first stage, various mechanisms could be utilized. For example, the residual funds could be distributed among state governments along with and for the same purposes as the residual funds in other crude oil-related special refund cases such as *Alkek* and *Adams*.[6] In this second stage, the funds would be apportioned among state governments to reflect the level of petroleum consumption in each state during the settlement agreement period. All states, not only those in which NYP sold crude oil, would share in this distribution because, as noted above, the DOE Entitlements Program spread the effects of crude oil violations to all consumers of refined products nationwide. As in the cases involved in other crude oil consent order refund proceedings, we are unable to determine conclusively what should be done with the residual funds because the amount remaining after the first stage affects the appropriateness of the second-stage distribution scheme. *See Alkek*, 9 DOE at 85,138. If the sum remaining after the first-stage distribution is so small as to render a second-stage distribution inefficient or impractical, we may then direct the deposit of the remainder of this portion into the miscellaneous receipts account of the United States Treasury. *See* 10 CFR 205.287(c).

We are soliciting comments concerning these proposed procedures for distribution of the funds remitted to the DOE by NYP. This Proposed Decision and Order will be sent to those parties which, based on the record thus far, appear to have an interest in the proceeding, and will be published in the Federal Register. Comments should be submitted within 30 days after the publication of this Proposed Decision in the Federal Register. All comments will be made available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays. After all comments have been received, we may hold a public hearing concerning this matter, notice of which will be provided to all parties and published in the Federal Register.

It is therefore ordered that:

The Petition for Implementation of Special Refund Procedures filed by the Office of Special Counsel in the Matter of New York Petroleum, Inc. (NYP) is hereby granted. The settlement amount supplied by NYP, plus accrued interest, will be distributed in accordance with the foregoing Decision.

[FR Doc. 84-437 Filed 01-06-84; 8:45 am]

BILLING CODE 6450-01-M

[6] In *Standard Oil Co. (Indiana)*, 11 DOE ¶ ——No HQR-0020 (November 10, 1983), we recently indicated that American Indian tribes might also be appropriate recipients of a portion of second-stage refund pools. We will consider this alternative for second-stage refund distributions in this case also.

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59140A TSH-FRL 2504-2]

Napthoquinone-(1,2)-Diazide-(1)-Sulfonic-(5)-Acid Ester; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of TM-84-15, and application for a test marketing exemption (TME), under section 5(h)(6) of the Toxic Substances Control Act (TSCA). The test marketing conditions are described below.

EFFECTIVE DATE: December 30, 1983.

FOR FURTHER INFORMATION CONTACT: June Thompson, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St. SW., Washington, D.C. 20460; (202-382-3737).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemcial substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the application, and for the time period specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the levels and duration of exposure must not exceed that specified in the application. All other conditions described in the applications must be

met. The following additional restrictions apply:

1. If the substance is shipped, the applicant must maintain records of the date(s) of shipment(s) to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

2. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME.

TME 84-15

Date of Receipt: November 21, 1983.

Notice of Receipt: December 2, 1983 (48 FR 54395).

Applicant: Molecular Rearrangement, Inc.

Chemical: (Generic) Napthoquinone-(1,2)-diazide-(1)-sulfonic-(5)-acid ester.

Use: In production of film for printing applications for industrial use.

Production Volume: Confidential.

Number of Customers: Confidential.

Exposure Information: During processing, workers could be exposed to the TME substance while weighing solids and during coating activities. Additional workers will have potential exposure from cutting film and from quality control testing activities. Routes of potential exposure are dermal and via inhalation. There will be no consumer exposure.

Test Marketing Period: 90 days.

Commencing on: (Insert signature date.)

Risk Assessment: Exposure to the new TME substance might result in irritation. However, under the conditions of use and limited duration of the test marketing activity, potential for worker exposure to the TME substance will be very low. During processing, workers will be required to wear respirators while mixing dry solids and to wear protective clothing and gloves during processing and use operations. No significant environmental effects were identified, and releases are expected to be negligible.

Public Comments: None.

The Agency reserves the right to rescind approval of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk to health or the environment.

Dated: December 30, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 84-421 Filed 1-6-84; 8:45 am]

BILLING CODE 0210-01-M

FEDERAL COMMUNICATIONS COMMISSION

American Telephone and Telegraph Co.; Revisions to Tariff F.C.C. Nos. 258 and 260, and the Establishment of Tariff F.C.C. No. 259, for Series 7000 Terrestrial Television Transmission Services; Memorandum Opinion and Order

[CC Docket No. 81-351; Transmittal Nos. 14362 and 14393; 6-17-81; 46 FR 31747]

Adopted December 28, 1983.
Released: December 30, 1983.
By the Common Carrier Bureau.

1. In 1981, the Commission instituted this investigation into the rate structure for American Telephone and Telegraph Company's (AT&T) terrestrial television transmission services.[1] This investigation has focused on whether the disparity between part-time and full-time interexchange channel (IXC) rates for this service unreasonably discriminates against part-time users. As part of its investigation, the Commission solicited comments as to whether prescription of a Series 7000 rate structure might be necessary.[2] Before that pleading cycle was completed, however, the major full-time and part-time Series 7000 users submitted a proposal to retain the existing part-time/full-time rate structure with minor modifications. In commenting on the proposal, AT&T largely agreed that the rate structure proposed by the user parties could be workable for the future. Finding that a Series 7000 rate structure on which the different classes of customers agree is not likely to be unreasonably discriminatory, the Commission deferred the date for filing reply comments on the prescription issue and approved the proposal, in principle, as reasonable for future AT&T filings. *Memorandum Opinion and Order,* FCC 83-289, released June 28, 1983, 48 FR 30439 (July 1, 1983) *(MO&O).* Moreover, in the *MO&O,* the Commission anticipated that a future AT&T Series 7000 tariff filing incorporating that rate structure methodology would resolve the core issue of this investigation and thus would be likely to provide a sufficient basis for its termination.

2. AT&T recently filed IXC rate revisions to its Series 7000 tariff offering increasing full-time IXC rates and decreasing part-time rates in a manner consistent with the agreed upon rate structure.[3] As we see no further need to pursue the rate structure issues, we are terminating the investigation.

3. Accordingly, it is ordered, that CC Docket No. 81-351 is terminated.

4. It is further ordered, that the petitions filed against AT&T's Transmittal No. 14362 by American Broadcasting Companies, Inc., CBS, Inc., National Broadcasting Company, Inc., Hughes Television Network, the Association of Independent Television Stations, Inc., and the Commissioner of Baseball are dismissed as moot.

5. It is further ordered that the Secretary shall cause a copy of this order to be published in the Federal Register.

Federal Communications Commission.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc. 84-403 Filed 1-6-84; 8:45 am]

BILLING CODE 0712-01-M

[1] AT&T Series 7000, Docket No. 81-351, 86 FCC 2d 861 (1981).

[2] AT&T Series 7000, Docket No. 81-351, 88 FCC 2d 1656 (1982).

[3] *See* Transmittal No. 14393, filed on November 4, 1983. AT&T originally proposed revisions to its Series 7000 service in Transmittal No. 14362, dated September 23, 1983. Petitions seeking rejection or suspension and investigation of these revisions were filed by American Broadcasting Companies, Inc., CBS, Inc., National Broadcasting Company, Inc., Hughes Television Network, the Association of Independent Television Stations, Inc., and the Commissioner of Baseball. Petitioners objected to these revisions on grounds that AT&T did not correctly apply the rate structure approved by the Commission in the *MO&O).* Moreover, petitioners complained that AT&T sought to make unreasonable changes in the terms governing cancellation charges for this service. On October 24, 1983, the Bureau granted AT&T Special Permission No. 83-930, to file IXC rate revisions corresponding to those unanimously endorsed by the petitioners in their pleadings. AT&T and the users later agreed upon cancellation charge terms, and on November 3, 1983, the Bureau granted AT&T Special Permission No. 83-960 to file revisions incorporating that agreement as well. Both sets of revisions were filed in Transmittal No. 14393. Therefore, we are dismissing the petitions as moot.

New FM Stations; Applications for Consolidated Hearing; Performing Arts Network of New Jersey, and American Institute for Jewish Education

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/State	File No.	MM Docket No.
A. Performing Arts Network of New Jersey; Dover Township, New Jersey.	BPED-821221AP.....	83-1330
B. American Institute for Jewish Education; Lakewood, New Jersey.	BPED-830215AO.....	83-1331

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been

standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. (See Appendix—B.
2. Air Hazard—A, B.
3. (See Appendix)—A, B.
4. (See Appendix)—A, B.
5. (See Appendix)—A, B.
6. (See Appendix)—A, B.
7. Ultimate—A, B.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division. Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8*; the applicant(s) is financially qualified: B (AIJE)

3. To determine, the number of other primary noncommercial educational FM services (1.0 mV/m or greater) available in the proposed service areas, and the areas and populations served thereby.

4. To determine, whether a share-time arrangement between the applicants would result in the most effective use of the channel and thus better serve the public interest, and, if so, the terms and conditions thereof.

5. To determine, in light of Section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

6. To determine, in the event it is concluded that a choice between applications should not be based solely on considerations relating to Section 307(b), the extent to which each of the proposed operations will be integrated into the overall educational operations and objectives of the respective applicants; or whether other factors in the record demonstrate that one applicant will provide a superior FM educational broadcast service.

[FR Doc. 84-432 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

*Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s) and Deficiency

B (AIJE): No operating budget or balance sheet for applicant. No balance sheets for Interface International, Inc. or New Jersey American Leasing, Inc. indicating their ability to lend all funds required for construction and operation for three months.

TIAG Separations and Costing Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a two day meeting of the Telecommunications Industry Advisory Group's (TIAG) Separations and Costing Subcommittee scheduled to meet on Monday, January 19, and Tuesday, January 20, 1984. The meeting will be held at 10:00 a.m. in Room 215 of Coopers & Lybrand offices at 1251 Avenue of the Americas, New York, New York, and will be open to the public. The agenda is as follow:

I. General Administrative Matters
II. Review of revised expense accounts for Part 67
III. Review of revised plant accounts for Part 69
IV. Adjournment

With prior approval of Subcommittee Chairman Eric Leighton, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of the Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Leighton (518/462-2030) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-433 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group Income and Other Accounts Subcommittee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Advisory Group (TIAG) Income and Other Accounts Subcommittee scheduled for Wednesday and Thursday, January 18 and 19, 1984. The meeting will begin on January 18 at 9:30 a.m. in the offices of the Central Services Organization, 2101 L St., NW (sixth floor Small Conference Room), Washington, DC, and will be open to the public. The agenda is as follows:

I. General Administrative Matters
II. Discussion of Assignments
III. Other Business
IV. Presentation of Oral Statements
V. Adjournment

With prior approval of subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of subcommittee objectives. Anyone not a member of the subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659-3484) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 84-434 Filed 1-6-84; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Notice of Proposed Rulemaking (NPRM).
Title: Public Safety Officer Awards.
Abstract: FEMA and DOJ, under the revised regulation, will ask the officials of States and locals to submit nominations of public officers to receive awards from the President, Attorney General or Director of FEMA for services in law enforcement, fire fighting or civil defense.
Type of respondents: Individuals or Households, State or local Governments.
Number of respondents: 200
Burden hours: 200.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, 500 C. Street, SW, Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Wesley C. Moore,

Acting Director, Administrative Support.

[FR Doc. 84–416 Filed 1–6–84; 8:45 am]

BILLING CODE 6718–01–M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Regulation.
Title: Project Performance—Project Report.
Abstract: Report consists essentially of standard construction progress schedule. No format is prescribed.
Type of respondents: State or Local Governments, Non-Profit Institutions.
Number of respondents: 10.
Burden hours: 10.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA clearance Officer, Linda Shiley, (202) 287–9906, 500 C. St., SW, Washington, D.C. 20472.

Comments should be directed to Ken Allen, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Wesley C. Moore,

Acting Director, Administrative Support.

[FR Doc. 84–417 Filed 1–6–84; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL RESERVE SYSTEM

BancOhio Corp.; Proposed de Novo Nonbank Activities by a Bank Holding Company

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely realted to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *BancOhio Corporation,* Columbus, Ohio (financing and servicing activities; Ohio and Kentucky): To engage, through its subsidiary, BancOhio Mortgage Company, in making, acquiring or servicing for its own account or for the account of others, all types of residential and commerical mortgage loans and other extensions of credit (including issuing letters of credit and accpeting drafts) and other such activities as are incidential thereto. These activities will be conducted from a new branch office in Cincinnati, Ohio, serving the States of Ohio and Kentucky. Comments on this application must be received not later than January 24, 1984.

Board of Governors of the Federal Reserve System, January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–428 Filed 1–6–84; 8:45 am]

BILLING CODE 6210–01–M

Bovey Financial Corp.; Proposed Acquisition of Bovey Insurance Service

Bovey Financial Corporation, Bovey, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Bovey Insurance Service, Bovey, Minnesota.

Applicant states that the proposed subsidiary would engage in general insurance agency activities in a town with a population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Bovey, Minnesota and the geographic area to be served is the area within a 20-mile radius of Bovey, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking priactices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 2, 1984.

Board of Governors of the Federal Reserve System, January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84–424 Filed 1–6–84; 8:45 am]

BILLING CODE 6210–01–M

Coronado, Inc.; Proposal To Engage in General Insurance Activities

Coronado, Inc., Sterling, Kansas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire the general insurance business of Landmark Federal Savings Association, Dodge City, Kansas.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency in a town of less than 5,000 in population. These activities would be performed from offices of Applicant's subsidiary in Sterling, Kansas and the geographic areas to be served are Rice and Reno Counties in Kansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than February 3, 1984.

Board of Governors of the Federal Reserve System, January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-425 Filed 1-6-84; 8:45 am]

BILLING CODE 6210-01-M

First Banc Securities, Inc., et al.; Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Banc Securities, Inc.*, Morgantown, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Morgantown, West Virginia. Comments on this application must be received not later than February 1, 1984.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Eden Valley Bancshares, Inc.*, Eden, Valley, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank in Eden Valley, Eden Valley, Minnesota. Comments on this application must be received not later than February 1, 1984.

2. *First National Corporation*, Grand Forks, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Frist National Bank in Grand Forks, Grand Forks, North Dakota. Comments on this application must be received not later than January 25, 1984.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Independent Financial, Inc.*, Lubbock, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Whisperwood National Bank, Lubbock, Texas. Comments on this application must be received not later than February 1, 1984.

Board of Governors of the Federal System, January 3, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-426 Filed 1-6-84; 8:45 am]

BILLING CODE 6210-01-M

Second National Corp.; Acquisition of Bank Shares by a Bank Holding Company

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. Any comment on the application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Second National Corporation*, Richmond, Indiana; to acquire 24.69 percent of the voting shares or assets of Bentonville State Bank, Bentonville, Indiana. Comments on this application must be received not later than January 25, 1984.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 84-427 Filed 1-6-84; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83D-0414]

Action Levels for Total Volatile N-Nitrosamines in Rubber Baby Bottle Nipples; Availability of Compliance Policy Guide

Correction

In FR Doc. 83-34324, beginning on page 57014, in the issue of Tuesday,

December 27, 1983, make the following corrections:

1. On page 57014, in the second column, in the "summary" paragraph, in the fifth line "N-nitrosamines" should read "*N*-nitrosamines".

2. Also on page 57014, in the third column, in the fourth line from the bottom, "anine-containing" should read "amine-containing".

BILLING CODE 1505-01-M

Advisory Committees; Meetings

Correction

In FR Doc. 83-34426, beginning on page 57172, in the issue of Wednesday, December 28, 1983, make the following corrections:

1. On page 57172, in the third column, in the eleventh line from the bottom, "markets" should read "markers"

2. On page 57173, in the first column, in the sixth line from the top, "markets" should read "Markers".

BILLING CODE 1505-01-M

[Docket No. 83N-0363]

Biological Products; in Vitro or in Vivo Monoclonal Antibodies, Products Made Using Recombinant DNA Technology, or Interferon; Availability of Draft Criteria for New Technologies; Request for Comments, Data, and Recommendations

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of four separate sets of draft criteria for new technologies: in vitro monoclonal antibody products; in vivo monoclonal antibody products; recombinant DNA products; and interferon products. FDA also is requesting comments, data, and recommendations from the public on each of the documents. The agency eventually may develop these documents into guidelines or regulations to ensure the safety, purity, potency, and effectiveness of these kinds of biological products subject to licensure under the Public Health Service Act as well as for nonbiological new drugs made by recombinant DNA technology and subject to approval under the Federal Food, Drug, and Cosmetic Act.

ADDRESS: Written comments or a request for a copy of the draft documents to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. A copy of each of the four documents is on public display at the Dockets Management Branch.

FOR FURTHER INFORMATION CONTACT: For monoclonal antibody products: Bruce Merchant, National Center for Drugs and Biologics (HFN-838), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-4538.

For recombinant DNA products: Darrell Liu, National Center for Drugs and Biologics (HFN-870), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-2893.

For interferon: Kathryn Zoon, National Center for Drugs and Biologics (HFN-870), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-496-2893.

SUPPLEMENTARY INFORMATION: Biological monoclonal antibody products prepared by hybridoma technology, drugs and biological products produced by recombinant DNA technology, and interferon intended for investigational use in humans currently present a potential for major advances in medical diagnosis or therapy. These new technologies pose unique quality control and safety problems that must be thoroughly considered and overcome before any such products are licensed and commercially marketed. FDA's National Center for Drugs and Biologics has developed the following four draft documents to assist manufacturers in developing and submitting to FDA applications for approval of such products for investigation or marketing:

1. Points to consider in the Manufacture of In Vitro Monoclonal Antibody Products Subject to Licensure (draft of June 20, 1983);

2. Points to Consider in the Manufacture of Monoclonal Antibody Products for Human Use (draft of July 25, 1983);

3. Points to Consider in the Production and Testing of New Drugs and Biologicals Produced by Recombinant DNA Technology (draft of November 18, 1983); and

4. Interferon Test Procedures: Points to be Considered in the Production and Testing of Interferon Intended for Investigational Use in Humans (draft of July 28, 1983).

FDA requests comments, data, and recommendations concerning each of the four draft documents. FDA may develop each of these documents into guidelines under 21 CFR 10.90(b)(1) or into regulations as needed to ensure the safety, purity, potency, and effectiveness of any licensed biological product prepared by any of these new technologies or to ensure the safety and effectiveness of new drugs or other products regulated under the Federal Food, Drug, and Cosmetic Act and produced by recombinant DNA technology. Because these new technologies are changing and improving constantly, FDA may revise the draft documents several times and place the revisions on display. However, rather than publish a notice of availability with each such revision, FDA will send a copy of any revised draft document to any person who has requested updated versions of the documents in accordance with the procedure described below.

FDA has already provided each manufacturer of monoclonal antibody products, recombinant DNA products, and interferon with a copy of the four draft documents. Other persons interested in obtaining a copy of the documents and any future revisions may write to the Dockets Management Branch (address above). Requests should include the docket number found in brackets in the heading of this document and the specific title of the documents of interest to the person submitting the request.

Interested persons may submit written comments on the documents to the Dockets Management Branch. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 3, 1984.

Mark Novitch,

Acting Commissioner of Foods and Drugs.

[FR Doc. 84-400 Filed 1-6-84; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

National Digestive Diseases Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on January 31, 1984, 8:30 a.m. to adjournment, at Wilson Hall, Building 1, National Institutes of Health, Bethesda, Maryland 20205. The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue the evaluation of the implementation of current digestive diseases plan. Attendance by the public will be limited to space available.

Dr. Ralph Bain, Executive Director, National Digestive Diseases Advisory Board, P.O. Box 30377, Bethesda, Maryland 20084, (301) 496-2232, will

provide an agenda and roster of members. Summaries of the meeting may be obtained by contacting Carole A. Frank, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496–6917.

Dated: January 4, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-409 Filed 1-6-84; 8:45 am]

BILLING CODE 4140-01-M

Clinical Applications and Prevention Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, National Institutes of Health, March 21–22, 1984. The meeting will be held in Conference Room B119, Federal Building, 7550 Wisconsin Avenue, Bethesda, Maryland 20205.

This meeting will be open to the public on March 21 from 9:00 a.m. to recess and from 8:30 a.m. to adjournment on March 22 to discuss new initiatives, program policies and issues. Attendance by the public is limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request. Dr. William Friedewald, Executive Secretary of the Committee, Federal Building, Room 212 Bethesda, Maryland 20205, phone (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health.)

Dated: January 4, 1984.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 84-408 Filed 1-6-84; 8:45 am]

BILLING CODE 4140-01-M

Biomedical Research Support Subcommittee of the General Research Support Review Committee; meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Research Support Subcommittee of the General Research Support Review Committee, Division of Research Resources, National Institutes of Health, February 24, 1984, Building 31C, Conference Room 8, Bethesda, Maryland 20205, from 9:30 a.m. to adjournment.

The meeting will be open to the public on February 24, from 9:30 a.m. to adjournment to discuss program policies and planning for the Biomedical Research Support Grant Program, the Biomedical Research Support Shared Instrumentation Grant Program and the Minority High School Student Research Apprentice Program. Attendance by the public will be limited to space available.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B10, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Marjorie A. Tingle, Executive Secretary, Biomedical Research Support Subcommittee of the General Research Support Review Committee will furnish substantive program information and will receive any comments pertaining to this announcement.

(Catalogue of Federal Domestic Assistance Program No. 13.337, Biomedical Research Support, National Institutes of Health)

Dated: January 4, 1984.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 84-407 Filed 1-6-84; 8:45 am]

BILLING CODE 4140-01-M

Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on February 16–17, 1984 at the National Institutes of Health, Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting, from 8:30 a.m. on February 16 to adjournment on February 17, will be open to the public. The Committee will discuss the plans for fiscal year 1985. Attendance by the public will be limited to the space available.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–4236, will provide summaries of the meeting and rosters of the Committee members.

Dr. Suzanne S. Hurd, Acting Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496–7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: January 4, 1984.

Betty J. Beveridge,

Committee Management Officer.

[FR Doc. 84-406 Filed 1-6-84; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Chemicals (13) Nominated for Toxicological Testing; Request for Comments

SUMMARY: On November 8, 1983, the Chemical Evaluation Committee of the National Toxicology Program (NTP) met to review 12 chemicals and one group of substances nominated for toxicology testing and to recommend the types of testing to be performed. With this notice, the NTP solicits public comment on the 13 chemicals listed herein.

For Further Information and Submission on Comments, Contact: Dr. Dorothy Canter, Assistant to the Director, National Toxicology Program, Room 2B55, Building 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–3511.

SUPPLEMENTARY INFORMATION: As part of the chemical selection process of the National Toxicology Program, nominated chemicals which have been reviewed by the NTP Chemical Evaluation Committee (CEC) are published with request for comment in the Federal Register and *NTP Technical Bulletin.* This encourages outside individuals and groups to participate in the NTP chemical evaluation process thereby helping the NTP to make better informed decisions as to whether to select, reject or defer chemicals for testing.

Relevant comments and data submitted in response to this request are reviewed and summarized by NTP technical staff and then forwarded to the NTP Board of Scientific Counselors for its evaluation of the nominated chemicals and to the NTP Executive Committee for its decision-making about testing. The NTP chemical selection process is summarized in the Federal Register, April 14, 1981 (46 FR 21818), and also in the NTP FY 1983 Annual Plan, pages 213–215.

On November 8, 1983, the CEC evaluated 12 chemicals and one group of substances nominated to the NTP for toxicological testing. The table below lists the chemicals and the group of substances, the Chemical Abstracts Service (CAS) registry numbers, where applicable, and the types of testing recommended by the CEC.

Chemical	CAS No.	Committee recommendation
1. Arsine	7784-42-1	Comparative study of chemical disposition of arsine and arsenic trioxide.
2. Black newsprint inks		Skin painting carcinogenicity of two types of ink and of their petroleum pitch and petroleum oil vehicle components. Chemical analyses of inks and their components to be performed prior to initiation of carcinogenicity studies.
3. Cinquasia red	1047-16-1	Inhalational chemical disposition study.
4. C.I. Acid Yellow 151	12715-61-6	No testing.
5. C.I. Basic Red 18	14097-03-1	Dermal chemical disposition study.
6. C.I. Direct Red 80	2610-10-8	No testing.
7. C.I. Direct Yellow 4	3051-11-4	Chemical disposition study. Carcinogenicity study if absorption demonstrated.
8. C.I. Disperse Brown 1	23355-64-8	No testing.
9. D&C Yellow No. 11	8003-22-3	Salmonella assay. Dermal chemical disposition study. Oral carcinogenicity study.
10. Luminol	521-31-3	Salmonella assay. Dermal chemical disposition study.
11. Malathion	121-75-5	Defer pending receipt of reproductive studies from EPA.
12. Picloram	1918-02-1	Defer pending receipt of data from EPA.
13. Stannous flouride	7783-47-3	No testing.

The chemicals malathion and picloram were previously tested by the NTP in various toxicology test systems. Malathion was negative for carcinogenicity in feeding studies in male and female rats and mice. The chemical was also negative in the *Salmonella* microsomal assay when tested in four strains of the bacteria both with and without metabolic activation. Malathion was positive for both chromosomal aberrations and sister chromatid exchanges when tested in cultured Chinese hamster ovary cells.

In an NCI/NTP feeding study of picloram in male and female rats and mice, an increased incidence of neoplastic nodules of the liver in female rats was associated with treatment with picloram. No tumors were observed in male or female mice or male rats at incidences that could be significantly associated with treatment. On the basis of these results, it was judged that there is equivocal evidence of carcinogenicity for picloram. The chemical ws negative in the *Salmonella* assay in all four strains tested both with and without metabolic activation. Picloram did not induce sexlinked recessive lethal mutations when tested in Drosophila. It currently is being tested in cultured Chinese hamster ovary cells for its ability to induce chromosomal aberrations and sister chromatid exchanges.

Although stannous fluoride has not previously been selected for testing by the NTP, two related compounds, namely stannous chloride and sodium fluoride, have been. There was no evidence of carcinogenesis when stannous chloride was tested in a feed study in male and female rats and mice. The chemical was also negative in the *Salmonella* assay in all four strains tested with and without activation. Sodium fluoride is currently being administered in the water to rats and mice in a carcinogenesis study. It was negative in all four strains tested in the *Salmonella* assay but yielded positive results in the L5178Y mouse lymphoma assay.

None of the other chemicals evaluated for testing at the November 8, 1983 meeting have previously been selected by the NTP for any type of toxicological testing.

Interested parties are requested to submit perfinent information. The following types of data are of particular relevance:

(1) Completed, ongoing and/or planned toxicological testing in the private sector including detailed experimental protocols and, in the case of completed studies, resultant data.

(2) Modes of production, present production levels, and occupational exposure potential.

(3) Uses and resulting exposure levels, where known.

(4) Results of toxicological studies of structurally related compounds.

Please submit all information in writing by (thirty days after date of publication). Any submissions received after the above date will be accepted and utilized where possible.

Dated: January 3, 1984.

David P. Rall,

M.D., Ph. D., Director, National Toxicology Program.

[FR Doc. 84-405 Filed 1-6-84; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Under Secretary

[Docket No. N-83-1328]

Advisory Committee on Contract Document Reform; Meeting

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of meeting of the Advisory Committee on Contract Document Reform.

SUMMARY: The second meeting of the Committee on Contract Document Reform will be held on January 31, 1984 at 9:30 a.m. in the Under Secretary's Conference Room (10106) at the Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

The purpose of the meeting is to discuss the Committee members' written comments on the contract documents used in connection with the Department's insured housing programs.

This meeting is open to the public. Any interested persons may attend, appear before, or file statements with the Committee. Oral statements may be made at the meeting at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Joseph R. Lupica, Special Assistant to the Secretary, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, Telephone: (202) 755-5713. [This is not a toll-free number.]

Dated: December 30, 1983.

Philip Abrams,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 84-473 Filed 1-6-84; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Big Sandy Rancheria, California; Distribution Plan

December 30, 1983.

This notice is published pursuant to the order issued June 13, 1983, in *San Joaquin or Big Sandy Band of Indians, et al.* v. *Watt, et al.*, Civil No. C-80-3787-MHP, by the United States District Court for the Northern District of California. Plaintiffs and class members in that lawsuit retain their status as Indians under the laws of the United States. The Distribution Plan for the Big Sandy Rancheria which was approved

February 17, 1965, and amended January 24, 1967, is of no further force and effect and shall not be further implemented, *provided,* however, that this provision shall not affect any vested rights created under the Distribution Plan, the validity of any conveyances authorized and affected thereunder or the rights of any subsequent bona fide purchaser for value.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-388 Filed 1-6-84; 8:45 am]

BILLING CODE 4310-02-M

Table Mountain Rancheria; Distribution Plan

December 30, 1983.

This notice is published pursuant to the order issued June 13, 1983, in *Table Mountain Rancheria Association, et al.* v. *Watt, et al.,* Civil No. C-80-4595-MHP, by the United States District Court for the Northern District of California. Plaintiffs and class members in that lawsuit retain their status as Indians under the laws of the United States. The Distribution Plan for the Table Mountain Rancheria which was approved July 16, 1959, is of no further force and effect and shall not be further implemented, *provided,* however, that this provision shall not affect any vested rights created under the Distribution Plan, the validity of any conveyances authorized and affected thereunder or the rights of any subsequent bona fide purchaser for value.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-389 Filed 1-6-84; 8:45 am]

BILLING CODE 4310-02-M

Federal Acknowledgment of the Poarch Band of Creeks; Proposed Finding

December 30, 1983.

This notice is published in the excise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(f), notice is hereby given that the Assistant Secretary proposes to acknowledge that the

Poarch Band of Creeks, c/o Mr. Eddie L. Tullis, Route 3, Box 243-A, Atmore, Alabama 36502

exists as an Indian tribe within the meaning of Federal law. This notice is based on a determination that the group satisfies the criteria set forth in 25 CFR 83.7 and, therefore, meets the requirements necessary for a government-to-government relationship with the United States.

The preliminary determination is that the contemporary Poarch Band of Creeks is a successor of the Creek Nation of Alabama prior to its removal to Indian Territory. The Creek Nation has a documented history back to 1540. Ancestors of the Poarch Band of Creeks began as an autonomous town of half-bloods in the late 1700's with a continuing political connection to the Creek Nation. The Poarch Band remained in Alabama after the Creek Removal of the 1830's, and shifted within a small geographic area until it settled permanently near present-day Atmore, Alabama.

The Band has existed as a distinct political unit since before the Creek War of 1813-14. It was governed by a succession of military leaders and prominent men in the 19th century. From the late 1800's through 1950, leadership was clear but informal. A formal leader was elected in 1950.

The group's bylaws describe how membership is determined and how the group governs its affairs and its members. Virtually all of the Band's 1,470 members can document descendancy from the historic Creek Nation and appear to meet the group's membership requirements. Intermarriage within the group has occurred to such an extent over the years that family lines present in the Poarch community are now extremely intertwined and many members trace their ancestry to more than one established Creek ancestor.

No evidence was found that the members of the Poarch Band of Creeks are members of any other Indian tribes or that the tribe or its members have been the subject of Congressional legislation which has expressly terminated or forbidden a relationship with the Federal Government.

Based on this preliminary factual determination, it is concluded that the Poarch Band of Creeks meets criteria a through g of § 83.7 of the Acknowledgment regulations.

Under § 83.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision is available to the petitioner and interested parties upon written request.

Section 83.9(g) of the regulations provides that any individual or organization wishing to challenge the proposed finding may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted by May 8, 1984. Comments and requests for a copy of the report should be addressed to the Office of the Assistant Secretary—Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20245, Attention: Branch of Federal Acknowledgment.

After consideration of the written arguments and evidence rebutting the proposed finding and within 60 days after the expiration of the response period, the Assistant Secretary will publish his determination regarding the petitioner's status in the Federal Register as provided in § 83.9(h).

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 84-387 Filed 1-6-84; 8:45 am]

BILLING CODE 4310-02-M

Conveyance of Public Lands in Cheyenne, Custer, Eagle, and Yuma Counties, Colorado

Correction

In FR Doc. 83-33895 appearing on page 56651 in the issue of Thursday, December 22, 1983, make the following corrections:

1. In the tabular text, under BLM Serial No., "C-5210-PS" should have read "C-35210-PS".

2. Under Patentee(s), "Roades Brothers, Inc." should have read "Rhoades Brothers, Inc."

BILLING CODE 1505-01-M

Bureau of Land Management

Craig District, Little Snake Resource Area, Colorado; Notice of Intent To Amend the Management Framework Plan, Redelineate the Fish Creek Tract, and Consider Additional Area for Leasing in the Green River-Hams Fork Region

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment to Williams Fork Management Framework Plan.

SUMMARY: In accordance with 43 CFR Part 1600 and Pub. L. 94-579, Section 603, the Bureau of Land Management, Craig District, Colorado, is beginning the process of amending the Williams Fork Management Framework Plan. The purpose of the MFP amendment is to determine if the area listed below is suitable for further consideration for competitive coal leasing. The effects of designating areas as suitable or unsuitable for further consideration for coal development will be assessed in an environmental assessment. Following the determination of areas which are suitable, BLM will analyze the impacts of leasing and development of any

suitable areas in the Green River-Hams Fork II EIS.

DATE: The scoping period runs for 30 days from the date of this notice. Written comments must be submitted within this 30-day period.

ADDRESS: Comments should be addressed to Carol MacDonald, Team Leader, Bureau of Land Management, Little Snake Resource Area, P.O. Box 1136, Craig, Colorado 81626.

SUPPLEMENTARY INFORMATION: The geographic area for the Williams Fork MFP coal amendment will be approximately 604 acres of land in Routt County, Colorado, within the Little Snake Resource Area. The study area lies approximately 20 miles southwest of Steamboat Springs, Colorado. Following is a legal description of the study area:

Sixth Principal Meridian

T. 5N., R. 86 W.,
Sec. 31, lots 1, 2, 3, and 4, W½E½, E½W½.
T. 5 N., R. 87 W.,
Sec. 25, lots 1, 2, 3, and 4.

Issues to be addressed in the plan amendment include cultural resources, wildlife, threatened or endangered species, floodplains, and alluvial valley floors.

Planning criteria will involve application of the unsuitability criteria (43 CFR 3460) and an analysis of multiple use decisions. A mineral analysis has determined this land only has potential for subsurface mining.

The plan amendment will be prepared through the use of an interdisciplinary team with experience and knowledge in the following areas: lands, minerals, hydrology, soils, wildlife, recreation, cultural resources, visual resources, and vegetation.

The following land use alternatives will be considered in the plan amendment and environmental assessment:

1. Determination of acceptability for further consideration for coal leasing.
2. Determination of non-acceptability for further consideration for coal leasing.
3. No action.

The scoping process will consist of a 30-day written comment period. Public meetings will be held if there is sufficient demand.

If this MFP amendment determines any part of the area acceptable for further consideration, BLM will include the acceptable area in the Fish Creek tract of the Green River-Hams Fork II EIS. In order to add the area, BLM intends to take the following steps in addition to amending the MFP:

1. A redelineation of the Fish Creek tract to include the acceptable area;
2. Preparation of a supplement to the Fish Greek SSA to identify and analyze the impacts of leasing additional area; and
3. Inclusion of all impacts, both site specific and regional, in the FEIS for the Green River-Hams Fork Region.

Through these steps, BLM will complete required land use planning and environmental analysis in order to be able to ensure timely consideration of leasing the area. Existing information on the area indicates that it is unlikely the area could ever be leased or mined if it were not included as part of the Fish Creek tract.

FOR FURTHER INFORMATION CONTACT: Carol MacDonald, (303) 824–4441.

Cecil Roberts,
Acting State Director.

[FR Doc. 84–457 Filed 1–6–84; 8:45 am]
BILLING CODE 4310–84–M

National Park Service

Intention To Negotiate Concession Contract; Kettle Falls Hotel, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Kettle Falls Hotel, Inc., authorizing it to provide overnight accommodations, food and beverage service, boat rental, fuel sales, mechanical portage, general merchandise sales, courtesy dock operations, and water transportation of lodging guests at Voyageurs National Park, Minnesota, for a period of ten (10) years from January 1, 1984, through December 31, 1993.

This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1983, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of a permit and in the negotiation of a new contract. This provision, in effect, grants Kettle Falls Hotel, Inc., the opportunity to meet the terms and conditions of any other proposal submitted in response to this notice which the Secretary may consider better than the proposal submitted by Kettle Falls Hotel, Inc. If Kettle Falls Hotel, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, then the proposed new contrct will be negotiated with Kettle Falls Hotel, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the thirtieth (30th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, for information as to the requirements of the proposed contract.

Dated: November 23, 1983.

James L. Ryan,
Acting Regional Director, Midwest Region.

[FR Doc. 84–423 Filed 1–6–84; 8:45 am]
BILLING CODE 4310–70–M

Intention To Negotiate Concession Contract; Whispering Pines of Kabetogama, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, though the Director of the National Park Service, proposes to negotiate a concession contract with Whispering Pines of Kabetogama, Inc., authorizing it to provide overnight accommodations, boat and motor rental, launch ramp, boat storage, fuel sales, general merchandise, and courtesy dock operations for the public at Voyageurs National Park, Minnesota, for a period of ten (10) years from January 1, 1984, through December 31, 1993.

This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1983, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of a permit and in the negotiation of a new contract. This provision, in effect, grants Whispering Pines of Kabetogama, Inc., the

opportunity to meet the terms and conditions of any other proposal submitted in response to this notice which the Secretary may consider better than the proposal submitted by Whispering Pines of Kabetogama, Inc. If Whispering Pines of Kabetogama, Inc., amends its proposal and the amended proposal is substantially equal to the better offer, than the proposed new contract will be negotiated with Whispering Pines of Kabetogama, Inc.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the thirtieth (30th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, for information as to the requirements of the proposed contract.

Dated: November 23, 1983.

James L. Ryan,

Acting Regional Director, Midwest Region.

[FR Doc. 84-422 Filed 1-6-84; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30381]

The Bloomer Shippers Railway Redevelopment League; Operations and Construction Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10901 the Bloomer Shippers Railway Redevelopment League to: (1) Operate or have a separate operating company operate a 63-mile line of track known as the Bloomer Line located between a point west of Herscher, Kankakee County, IL, and a point east of Barnes, McLean County, IL; (2) construct connecting tracks with the Norfolk and Western Railway at Risk (Strawn) IL, and with the Atchison, Topeka and Santa Fe Railway at Chatsworth, IL; and (3) operate the line beginning with a central segment running from milepost 88 (north of Cullom) to milepost 120 (west of Colfax) and including the two above-mentioned track connections. In addition, the Commission exempts petitioner from the requirements of 49 U.S.C. Subtitle IV, (a) from any immediate common carrier obligation to provide transportation outside a 32-mile central portion of the Bloomer Line (outside the line between milepost 88 and milepost 120) and (b) from any provision which might prohibit the League from imposing a capital contribution requirement and/or separate local charge on prospective rail service users as a precondition to providing transportation.

DATES: These exemptions will be effective on December 30, 1983. Petitions to reopen must be filed by January 30, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30381 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioners' representative: Kevin B. McCarthy, 710 South Second Street, Second Floor, Springfield, IL 62704.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC metropolitan area) or toll free (800) 424-5403.

Decided: December 30, 1983.

By The Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Sterrett did not participate.

James H. Bayne

Acting Secretary.

[FR Doc. 84-431 Filed 1-6-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30328]

Chicago and North Western Transportation Company—Abandonment Exemption—In Kane County, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by Chicago and North Western Transportation Company of a 0.7-mile segment of track between milepost 35.8 and milepost 36.5, in Kane County, IL, subject to standard labor protection.

DATES: This exemption will be effective on February 8, 1984. Petitions to stay must be filed by January 19, 1984, and petitions for reconsideration must be filed by January 30, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30328 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.
(2) Petitioner's representative: Robert T. Opal, One North Western Center, Chicago, IL 60606.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metroplitan area) or toll free (800) 424-5403.

Decided: December 30, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison

James H Bayne,

Acting Secretary.

[FR Doc. 84-424 Filed 1-6-84; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30354]

Delware and Hudson Railway Company—Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 11301 the issuance by Delaware and Hudson Railway Company, of $3.6 million in secured notes.

DATE: This exemption will be effective on December 30, 1983. Petitions to reopen this decision must be filed by January 30, 1984.

ADDRESSES: Send pleadings referring to Finance Docket No. 30354 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: James E. Howard, 1500 Oliver Building, Pittsburgh, PA 15222.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC

Metropolitian area) or toll free (800) 424–5403.

Decided: December 30, 1983.

By the Commission, Division 2, Commissioners Gradison, Taylor, and Sterrett. Commissioner Sterrett did not participate.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–432 Filed 1–6–84; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 447]

Petition To Delay Application of Direct Connector Requirement to Joint Rail Rates in General Increases

AGENCY: Interstate Commerce Commission.

ACTION: Final decision.

SUMMARY: The Commission finds that petitioners failed to show that it is not feasible for railroads to implement without delay and put into effect on January 1, 1984, the "direct connector" standard of 49 U.S.C. 10706(a)(3)(B) for joint rail rates in general rate increases. The petition for an extension of antitrust immunity is denied.

DATES: The decision is effective on January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the complete decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Authority: 49 U.S.C. 10321 and 10706; and 5 U.S.C. 553.

Decided: December 28, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre dissented with a separate expression.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–433 Filed 1–6–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-92)

Seaboard System Railroad, Inc.; Abandonment in Jefferson County, AL; Findings

The Commission has issued a certificate authorizing the Seaboard System Railroad, Inc. (SBD) to abandon its 6.7 mile rail line between milepost WR–374.2 near Monmouth and milepost WR–380.9 near Kimberly in Jefferson County, AL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–429 Filed 1–6–84; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-90)]

Seaboard System Railroad, Inc.; Abandonment in Sumter County, FL; Findings

The Commission has issued a certificate authorizing Seaboard System Railroad, Inc. to abandon its 5.48 mile rail line known as the Tarrytown Spur of the Tampa Division, between milepost AT–826.52, near Mabel, FL, and milepost AT–832.0, near Tarrytown, FL, in Sumter County. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person had offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicnt no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left hand corner of the envelope containing the offer: "Rail Section, AB–OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Acting Secretary.

[FR Doc. 84–430 Filed 1–6–84; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 83–2]

Hawkins Rexall Drug Inc.; Revocation of Registration

On December 6, 1982, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Hawkins Rexall Drug, Inc. (Respondent), 113 South Market Street, Madison, North Carolina 27025, seeking to revoke DEA Certificate of Registration AH3165962 issued to Respondent under 21 U.S.C. 823. The statutory predicate for the order under 21 U.S.C. 824(a)(2) was the conviction of Clayburn Irvin Hawkins, R.Ph., the owner and manager of Respondent pharmacy, on September 21, 1982, in the United States District Court for the Middle District of North Carolina of one count of unlawfully distributing a Schedule IV controlled substance in violation of 21 U.S.C. 841(a)(1). This is a felony conviction relating to controlled substances. Respondent, through counsel, requested a hearing on the issues raised by the Order to Show Cause.

The hearing in this matter was held May 24 and 25, 1983, in Greensboro, North Carolina. Administrative Law Judge Francis L. Young presided. On October 28, 1983, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision, which were duly served on counsel for the Government and Respondent. The Government filed exceptions to Judge Young's recommended ruling. On November 23, 1983, the Administrative Law Judge transmitted the record of these proceedings, including the Government's exceptions, to the Administrator. Having considered this record in its entirety, the Administrator under 21 CFR 1316.67 hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth.

The investigation of Clayburn Hawkins began in early November, 1981 when campus police at the University of North Carolina-Greensboro reported to DEA that diverted controlled substances were appearing on campus. DEA

Diversion Investigator (DI) John Anthony and North Carolina State Bureau of Investigation (SBI) Agent Fred Tucker went to the University and interviewed three students about the report. One student said that on October 26, 1981, she and two other students drove with one Linwood Chapman to the Respondent pharmacy, about 20 miles from Greensboro. Chapman entered the pharmacy about 7:00 p.m. and shortly thereafter the lights were turned off. About 20 or 30 minutes later Chapman returned to the car with Clayburn Hawkins. Chapman had eight or ten various sized bottles of controlled substances with him. Similarly, on October 28, 1981, the student drove with Chapman to the pharmacy where Chapman again obtained controlled substances from Hawkins.

One of the students volunteered to aid in the investigation. He told the investigators that he had been engaged in a homosexual relationship with Chapman during which Chapman told the student he was receiving controlled substances from Hawkins. The student also said that during their relationship Chapman was in possession of substantial quantities of controlled substances. The student told Investigator Anthony that he believed that he, the student, could obtain controlled substances from Hawkins.

On December 3, 1981, Agent Tucker, another SBI agent and the student went to Respondent pharmacy. The student wore a body tape recorder and a recording was made of his conversation with Hawkins, who gave him a vial containing six dosage units of Placidyl 750 mg. and four dosage units of Placidyl 500 mg. This was an illegal distribution made without a prescription with respect to which Hawkins pled guilty.

The student telephoned Hawkins on December 9, 1981, to discuss a convenient time for the student to come to the pharmacy to pick up some "hits of speed" the following day. On December 10, 1981, Agent Tucker and the student proceeded to the pharmacy where, again, Hawkins unlawfully distributed 54 phentermine to the student.

On December 16, 1981, the student called Hawkins to tell him that the student and Agent Tucker might come to the pharmacy later that day to get some Placidyl. During the recorded conversation Hawkins said of Agent Tucker, "Tell him I might reach down and feel of him."

Later that day Agent Tucker went to the pharmacy. Hawkins gave him a bag bearing the student's name and Agent Tucker asked if he might have a few things for himself. Hawkins instructed the Agent to go to an office area behind the prescription counter out of sight of the public and other employees. Hawkins gave Tucker another bag. While they were talking, Hawkins made some sexual gestures and touched Agent Tucker in the groin area and said: "Where did he get a handsome stud like you?" The bag first given by Hawkins contained eight Placidyl 500 mg; two Placidyl 750 mg; two Quaalude 300 mg; and 28 phentermine. The second bag contained 18 Placidyl 500 mg.

Agent Tucker telephoned Hawkins on January 20, 1982. He asked Hawkins if he could obtain some Quaalude and Placidyl. Hawkins told him there was no way he could give Agent Tucker Quaalude, saying he needed a prescription and he could not take a prescription over the phone for that. Hawkins said he could get Agent Tucker a few Placidyl. Later that day, Agent Tucker went to the pharmacy and picked up a bottle of 24 Placidyl 500 mg. and 46 phentermine. As at each of his previous encounters with Hawkins, Agent Tucker did not present a prescription or pay any money.

On February 1, 1982, Agent Tucker again telephoned Hawkins at the pharmacy. He asked Hawkins if he could obtain Dilaudid 4 mg. or Quaalude. Dilaudid (hydromorphone) is a Schedule II narcotic that is heavily abused. Quaalude (methaqualone) is a Schedule II nonnarcotic that is also very heavily abused. Hawkins replied that there was "no way" he could help Agent Tucker with the Dilaudid and that he would need a prescription for the Quaalude. Agent Tucker asked Hawkins if he would fill a Quaalude prescription from a physician and Hawkins agreed.

Agent Tucker visited the pharmacy on February 2, 1982. Hawkins motioned Agent Tucker to the back room, saying he "couldn't do anything with the druggist out there." Hawkins told the agent to return at 8:00 that evening, again saying that he could not give him any drugs when "the other druggist is there." Agent Tucker asked Hawkins if Chapman ever paid for the controlled substances he obtained from Hawkins. Hawkins said that Chapman did not pay and that Chapman had stolen controlled substances from Respondent pharmacy. Agent Tucker also asked how Hawkins covered the controlled substances he was giving the student, Agent Tucker and Chapman. Hawkins said he simply acted as though it was a call-in prescription and would make up a name and sign a physician's name to it. This procedure would not work for Schedule II controlled substances, such as Dilaudid, according to Hawkins. They discussed Dilaudid and Hawkins said he could obtain six for Agent Tucker, who tendered a blank presciption from a cooperating dentist. Hawkins told the agent to "just hold the prescription."

The next day, February 3, 1982, Agent Tucker went to the pharmacy. Hawkins motioned the agent to the office area. He again told Agent Tucker he could not do anything with the other pharmacist present. After some discussion, Agent Tucker left and returned 15 minutes later at Hawkins's instruction. Hawkins gave Agent Tucker a vial containing six Dilaudid 4 mg. Dilaudid was selling for about $50 a tablet on the street in North Carolina at that time.

DI Anthony conducted an audit of the pharmacy in February, 1982. The audit revealed significant recordkeeping violations, including failure to take a required biennial inventory of several substances including Placidyl. At least 1,442 dosage units of phentermine and 230 dosage units of Quaalude 300 mg. could not be accounted for in Respondent pharmacy's records. The figure for Quaalude represents 47% of the quantity for which the pharmacy was accountable. DI Anthony found 34 suspicious prescriptions for controlled substances presumably "written" by area physicians. The physicians denied signing the prescriptions. They also did not recognize the patients' names on the prescriptions.

Jerry Welch, the Chief of Police in Madison, North Carolina, the town in which Respondent pharmacy is located, testified that he visited the home of Linwood Chapman's mother, Mrs. Gates, in a rural area outside Madison while Chapman was a fugitive. Mrs. Gates gave Chief Welch permission to look in the bedroom formerly occupied by her son where the Chief found an envelope on which was drawn an accurate diagram of Respondent pharmacy. The diagram gave directions on how to find controlled substances at the pharmacy and also showed the location of money, a lock box, and the alarm system. Only an individual who had unrestricted access to the interior of the pharmacy would have been able to draw such a diagram.

Chief Welch further testified that the pharmacy was broken into on February 5, 1983, and that a large quantity of controlled substances, as well as blank money orders and a money order writing machine were stolen. An individual in Durham, North Carolina, was arrested for passing a money order stolen from the pharmacy. When Chapman was brought back to North Carolina, he had been incarcerated at a facility in Durham with an associate of the individual arrested for passing the stolen money order. The Administrator

believes that the break-in and theft after Chapman was in jail in Durham were more than mere coincidence and finds, as did the Administrative Law Judge, that Chapman had free access to the pharmacy area and that Hawkins could not control Chapman's movements for fear that Chapman would expose the nature of their relationship.

Chapman was convicted on March 17, 1983, of distributing controlled substances. Following his sentencing and at his request, he spoke with Agent Tucker. Chapman stated that he and Hawkins had had a homosexual relationship for approximately one year and that Hawkins had provided him with money and controlled substances, including Placidyl and Talwin. The Administrative Law Judge found, as does the Administrator, that Hawkins provided Chapman with controlled substances and money in return for sexual favors. Hawkins was clearly culpable not only for the quantities of controlled substances he unlawfully distributed to the student and Agent Tucker, but also for those diverted from the pharmacy by Chapman.

On September 21, 1982, Clayburn Hawkins was convicted of unlawfully distributing a controlled substance in violation of 21 U.S.C. 841(a)(1). Hawkins was sentenced to a one-year term of imprisonment which was suspended. He was ordered to enter a community treatment center for 120 days and to pay a fine of $15,000.

The Administrator finds that there is a lawful or statutory basis for the revocation of the Respondent's DEA registration as a result of the felony conviction of the pharmacy's owner and Manager, Clayburn Hawkins. See, *S & S Pharmacy, Inc.*, (no docket number), 46 FR 13052 (1981); *Big-T Pharmacy, Inc.*, Docket No. 80.34, 47 FR 51830 (1982); *Lawson & Sons Pharmacy and Fenwick Pharmacy*, (no docket number), 48 FR 16140 (1983), and cases cited therein. The Administrator further finds that there are compelling reasons for revoking the registration Hawkins so blatantly abused.

Having determined that Respondent's registration may be revoked, the Administrator must now determine whether the Respondent has produced sufficient evidence to mitigate against revocation. In deciding whether to leave a controlled substance registration in the hands of a convicted felon there is one overriding consideration—protection of the public health and safety. To leave a registration in the possession of a person who has previously abandoned his professional responsibilities and violated a public trust by diverting controlled substances requires that the Administrator be convinced that there is no likelihood of diversion again occurring at the hands of this individual. If there is any real doubt, then the Administrator, who is responsible for protecting the public interest, cannot again entrust such an individual to properly handle the very instrumentality of his crime. The burden on a convicted applicant or registrant who must show sufficient mitigation is great. However, the dangers inherent in the diversion and misuse of controlled substances are much greater and the public should not be required to endure the risk of future diversion where such risk can be totally avoided by denial of registration to an individual such as Clayburn Hawkins. While the Administrator does not want to unnecessarily restrict the professional or business activity of any registrant, the public interest in the effective enforcement of the laws relating to controlled substances must outweigh an individual's interest in securing or retaining a registration to handle those substances.

A number of witnesses, including Mr. Hawkins' psychiatric counsellor, his pastor, a local physician, two co-workers and the Sheriff of Rockingham County, North Carolina, testified on behalf of Mr. Hawkins and the Respondent pharmacy. Since his arrest and plea of guilty in the criminal case, Mr. Hawkins has sought psychiatric counselling. Marty Rosser, his counsellor testified that Hawkins' relationship with Chapman was an aberration brought on by loneliness, significant personal stress, childhood traits and martial difficulties. Nevertheless, both Ms. Rosser and Dr. Larry Bennett, Hawkins' clergyman, felt that there was little likelihood of similar occurrences in Hawkins' life in the future. The Administrative Law Judge noted that Hawkins had been less than honest with Ms. Rosser with respect to the duration and type of his homosexual conduct. For example, Hawkins had never told his counsellor that he had fondled Agent Tucker.

Alexander Cox, M.D., a now-retired physician who practiced in Madison, North Carolina, testified as to Mr. Hawkins' excellent character and reputation in the community. Although Dr. Cox had testified three times on behalf of Mr. Hawkins, he had always been sequestered and had never heard the testimony of the witnesses who appeared to testify against Mr. Hawkins. Furthermore, Mr. Hawkins frequently filled prescriptions for Schedule II controlled substances which were telephoned in to the Respondent pharmacy by Dr. Cox. The two co-workers who testified on behalf of Mr. Hawkins and the Respondent pharmacy were Virginia Sharpe and Oscar Mills. Ms. Sharpe is a part owner of the Respondent corporation and is also employed there. Mr. Mills is a registered pharmacist employed by the Respondent pharmacy. Both of these individuals have a significant financial stake in the Respondent pharmacy. The Administrator does not find their testimony to be persuasive.

The religious leader of Mr. Hawkins' church and the Sheriff of Rockingham County also testified for the Respondent. While the clergyman's testimony is accepted as sincerely given, the Sheriff's testimony is not particularly credible. Sheriff Vernon testified that Mr. Hawkins' character and reputation in the community were good. Later, however, the Sheriff admitted that he had no personal knowledge of the criminal activity of Mr. Hawkins and that he really did not know what the public opinion concerning Hawkins was. The Administrator is disturbed that cross-examination of Sheriff Vernon was severely limited and that portions of that testimony were physically expunged from the record. The Administrator fully supports the idea that the Respondent in proceedings such as this should be able to present testimony relevant to mitigation. In fairness to the public interest, such testimony should be subject to all proper cross-examination with respect to the witness' motivation and ties to the Respondent. Furthermore, expungement denies the Administrator the opportunity to review a complete record of the proceeding. While the weight of all other evidence in the record of this case rendered the expungement harmless, such might not be the case under other circumstances.

Although the Administrative Law Judge found that there was a lawful basis for revocation in this case, he recommended against imposition of that remedy. The judge concluded that Hawkins was a community leader who enjoys the support of the community and that Hawkins enjoyed an outstanding reputation in the community prior to the previously discussed incidents. He also found that Hawkins had already suffered great humiliation and anguish as a result of his conduct and that he was unlikely to violate the law again.

The Administrator does not accept these conclusions. The evidence in this case clearly shows that Clayburn Hawkins illegally distributed controlled substances and then falsified pharmacy records to conceal those distributions. These were not isolated incidents, they

continued over a period of time. As recently as February 1982, Hawkins was illegally distributing drugs to Agent Tucker. He knew that he was committing illegal acts when he gave drugs to young men in return for sexual favors, actual or potential. Hawkins did not voluntarily put a stop to this diversion. He did not notify law enforcement authorities about Chapman, admit his problems with homosexuality or reveal his illicit distribution of controlled substances until after he was caught. While the Administrator is hopeful that Hawkins will continue to seek psychiatric counselling, he is unconvinced that Hawkins is unlikely to again violate the law with respect to controlled substances. The appearance of a few employees, political and religious witnesses on behalf of the Respondent is not persuasive. The Controlled Substances Act applies in Madison, North Carolina, as it does throughout the United States. Its mandate must be followed by all registrants, regardless of their status in the community and their apparent contrition.

It is unusual for the Administrator to reject a recommendation of the Administrative Law Judge, but it is not unknown. See Lincoln Eramo, M.D., 42 FR 61336 (1977). In *Sokoloff v. Saxbe*, 501 F.2d 571 (2nd Cir. 1974), the Administrator rejected a recommendation of a two-year suspension and revoked a practitioner's registration. Similarly, in *River Forest Pharmacy v. Drug Enforcement Administration*, 501 F.2d 1202 (7th Cir. 1974), the Administrator suspended a pharmacy's DEA registration for two years even though the Administrative Law Judge had recommended a suspension of six months. Both courts held the action of the Administrator was proper as long as the action is a reasonable choice of remedy.

The Administrator concludes that under all of the facts and circumstances presented in this case the Respondent's registration must be revoked. Having concluded that the facts herein require revocation and having determined that there is a lawful basis for such revocation, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AH3165962 be, and it hereby is, revoked, and that any pending applications for renewal of such registration be denied.

Francis M. Mullen, Jr.,
Administrator.

[FR Doc. 84-509 Filed 1-6-84; 8:45 am]
BILLING CODE 4410-09-M

[Hydromorphone Docket No. 83-36]

Manufacture of a Controlled Substance; Objections, Request for Hearing, and Hearing; Mallinckrodt, Inc.

On November 3, 1983, at 48 FR 50806, notice was given that Mallinckrodt, Inc., Dept. CB, Mallinckrodt and Second Streets, St. Louis, Missouri 63147, had made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Hydromorphone, a basis class of controlled substance listed in Schedule II of the Controlled Substances Act of 1970.

Opportunity was given in the notice for the filing of comments and objections to this application and for the filing of requests for hearing with respect to it. A request for an extension of the time period for the filing of these papers was requested by Knoll Pharmaceutical Company. The request was granted by the Deputy Assistant Administrator, Office of Diversion Control.

Knoll Pharmaceutical Company subsequently filed objections to Mallinckrodt's application and a request for hearing. Knoll is presently registered by DEA as a bulk manufacturer of hydromorphone.

Knoll states its desire to be heard with respect to the issue of whether the registration of Mallinckrodt as an additional bulk manufacturer of hydromorphone would be consistent with the public interest under the criteria set forth in the Controlled Substances Act and applicable regulations and with U.S. obligations under international treaties, conventions, or protocols as required by 21 U.S.C. 823(a). Knoll believes that the Administrator of DEA cannot make this determination on the basis of the information presently available to him.

Knoll states its belief that there is presently an adequate and uninterrupted supply of hydromorphone, produced under what it feels are adequately competitive conditions existing in the relevant market, and that the relevant market in which hydromorphone competes also includes other substances used for the same or similar medical, scientific, research and industrial purposes.

Knoll believes that the public interest in adequately competitive conditions and in maintaining effective controls against the diversion of hydromorphone would not be served by the registration of Mallinckrodt.

Accordingly, notice is hereby given pursuant to 21 U.S.C. 1301.43 that a hearing will be held on the aforesaid application for registration commencing at 10:00 a.m. on Thursday, February 9, 1984, in Courtroom No. 10, Third Floor, U.S. Court of Claims, 717 Madison Place, NW., Washington, D.C., the proceedings on that day to be limited to a preliminary discussion to identify proper parties and issues, and to determine procedures and set dates and locations for further proceedings. Any person entitled to participate in said hearing and desiring to do so must file a Notice Of Appearance pursuant to 21 CFR 1301.54 and 1316.48 within thirty days of the date of publication of this notice. A person who has filed a request for hearing need not also file a Notice Of Appearance.

Dated: January 4, 1984.

Francis M. Mullen, Jr.,
Administrator, Drug Enforcement Administration.

[FR Doc. 84-507 Filed 1-6-84; 8:45 am]
BILLING CODE 4410-09-M

[Levorphanol Docket No. 83-37]

Manufacture of a Controlled Substance; Objections, Request for Hearing, and Hearing; Mallinckrodt, Inc.

On November 3, 1983, at 48 FR 50806, notice was given that Mallinckrodt, Inc., Dept. CB, Mallinckrodt and Second Streets, St. Louis, Missouri 63147, had made applicaion to the Drug Enforcement Administration to be registered as a bulk manufacturer of levorphanol, a basic class of controlled substance listed in Schedule II of the Controlled Substances Act of 1970.

Opportunity was given in the notice for the filing of comments and objections to this application and for the filing of requests for hearing with respect to it. A request for an extension of the time period for the filing of these papers was requested by Hoffmann-LaRoche, Inc. (Roche). The request was granted by the Deputy Assistant Administrator, Office of Diversion Control.

Roche subsequently filed objections to Mallinckrodt's application and a request for hearing. Roche is presently registered by DEA as a bulk manufacturer of levorphanol.

Roche states its desire to be heard with respect to a number of issues.

Roche asserts that Mallinckrodt has no legitimate medical, scientific, research or industrial outlets for levorphanol and wishes to be heard on whether, in light of this, it is consistent with the public interest to register Mallinckrodt. Because of this Roche contends that DEA can and should summarily dismiss Mallinckrodt's application. Roche goes on to state that FDA has ruled that levorphanol is a "new drug" under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(p)) and therefore, it may not be distributed in interstate commerce unless it is subject to an approved New Drug Application (NDA) which names the specific product for which approval is sought. NDA's have not been approved for any levorphanol product other than the brand produced by Roche. Therefore, Roche contends that no one other than Roche may lawfully distribute levorphanol in interstate commerce for routine medical use at this time and that registration of Mallinckrodt under these circumstances would be contrary to the puboic health and safety. Roche goes on to state objections and issues on which it wishes to be heard but believes that its first stated objection is dispositive and that DEA should summarily dismiss Mallinckrodt's application.

The second issue Roche states is whether Mallinckrodt's application should be denied in order to maintain effective controls against diversion by dimiting the bulk manufacture of controlled substances to a number of companies which can produce an adequare and uninterrupted supply under adequately competitive conditions. Roche asserts that adequate competition and supply for levorphanol and its close product substitutes presently exist and, further, that it believes that U.S. obligations under various international treaties as well as statutory obligations require DEA to limit registrations to a minimal number of companies that are capable of producting an adequate and uninterrupted supply under adequately competitive conditions. Roche asserts that DEA's interpretation of the governing statute as stated in an earlier proceeding (McNeilab, Inc., Docket No. 78-13, 46 FR 22089) was contrary to law and inconsistent with legislative history. Roche also feels that the facts surrounding the application of Mallinckrodt in this proceeding are so distinguishable from those in *McNeilab* that the holding in that case is inapplicable here.

Roche also asserts that the registration of Mallinckrodt would likely result in conditions for the production of levorphanol that are not adequately competitive or which would lead to inadequate or interrupted supplies and wishes to be heard as to whether granting Mallinckrodt's application would therefore be contrary to the public interest. Roche states that the only legitimate use for bulk levorphanol at the present time is to supply holders of NDA's for use in preparing finished pharmaceutical products. According to Roche, if Mallinckrodt is reigstered and receives a significant portion of the aggregate production quota set by DEA, then Roche, as the only present holder of an approved NDA for levorphanol, will be dependent on Mallinckrodt for part of its supply. Because the ability of Mallinckrodt to produce levorphanol in sufficient quantities and at approved quality levels on time and at a reasonable cost is unknown, Roche feels that the registration of Mallinckrodt would likely result in disruption in the supply of finished levorphanol products from Roche to the medical community.

Roche also wishes to be heard with respect to whether, to be consistent with the public interest, the number of firms producing levorphanol should be limited to one until such time as the demand for levorphanol significantly exceeds an efficient batch size or the likelihood develops that the single bulk manufacturer cannot or will not produce an adequate or uninterrupted supply at prices consistent with adequate competition. Roche feels that the present demand for levorphanol is too small to warrant the registration of more than one producer and that the entry of a second bulk manufacturer will result in an inefficient scale of production for all producers.

Another issue on which Roche wishes to be heard is whether the registration of Mallinckrodt would lead to a situation where there are too many registered firms for DEA to moniotr adequately. Roche states that levorphanol presently has little demand or notoriety in the illicit market but that the entry of new formulators into the market, which would result from Mallinckrodt's requested registration, will change this situation and may lead to a significant illicit demand for the drug and, therefore, new pressures for diversion.

Roche also desires to be heard with respect to whether the registration of Mallinckrodt is consistent with U.S. obligations and policies under international treaties. Roche feels that the registration of Mallinckrodt may be seen by the international community as inconsistent with long-standing policies of the U.S. in that DEA would be permitting the proliferation of domestic narcotic raw material suppliers and implicity encouraging the substitution of synthetic drugs for opium derivatives. In recent years, the U.S. has assured nations producing narcotic raw materials that they could rely on long term access to and stability in the U.S. market for these materials. According to Roche, the registration of Mallinckrodt would potentially reduce American demand for narcotic raw materials from these traditional supply countries and would create an incentive to them to lessen or end their existing voluntary restraints and controls on narcotic production.

Another issue Roche states is whether the registration of Mallinckrodt is contrary to the public interest because it would be a disincentive to the development of technical advances in the art of manufacturing levorphanol and to the development of new substances. Roche feels that it is a recognized leader in the discovery and development of new drugs to treat human and animal diseases and that its record in this regard is far superior to that of Mallinckrodt. Therefore, if, as Roche contends, the market for levorphanol can adequately accommodate only one supplier of the drug, then Roche feels that the public interest would be better served by the registration of Roche rather than Mallinckrodt.

Roche also wishes to be heard as to whether registration of Mallinckrodt is contrary to the public interest because it would act as a disincentive for Roche to continue providing the level of continuing medical education regarding levorphanol which Roche asserts is desired by practitioners. The entry of Mallinckrodt into the market could present practical difficulties to Roche's ability to maintain the expense of its efforts in this regard. In addition, Roche feels that there is no precedent or assurance that Mallinckrodt will support these educational activities.

Accordingly, notice is hereby given pursuant to 21 CFR 1301.43 that a hearing will be held on the aforesaid application for registration commencing at 2:00 p.m. on Thursday, February 9, 1984, in Courtroom No. 10, Third Floor, U.S. Claims Court, 717 Madison Place, NW., Washington, D.C., the proceedings on that day to be limited to a preliminary discussion to identify proper parties and issues, and to determine procedures and set dates and locations for further proceedings. Any person entitled to participate in said hearing

and desiring to do so must file a Notice of Appearance pursuant to 21 CFR 1301.54 and 1316.48 within thirty days of the date of publication of this notice. A person who has filed a request for hearing need not also file a Notice of Appearance.

Dated: January 4, 1984.

Francis M. Mullen, Jr.,

Administrator, Drug Enforcement Administration.

[FR Doc. 84-503 Filed 1-6-84; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506:

Date: January 19-20, 1984
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications submitted to Basic Research: Conferences Panel, Division of Research Programs, for projects beginning after April 1, 1984.

Date: February 2-3, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the areas of lexicography and linguistics submitted to the Reference Works Programs: Research Tools, Division of Research Programs, for projects beginning after July 1, 1984.

Date: February 6-7, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications submitted to the Basic Research Program, Division of Research Programs, for projects beginning after July 1, 1984.

Date: February 10, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the areas of European history, philosophy, theology, and medieval studies, submitted to the Reference Works Program: Editions, Division of Research Programs, for projects beginning after July 1, 1984.

Date: February 13, 1984.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315
Program: This meeting will review applications in the field of the arts submitted to the Reference Works Program: Research Tools, Division of Research Programs, for projects beginning after July 1, 1984.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 84-439 Filed 1-6-84; 8:45 am]

BILLING CODE 7536-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirement Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirement to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before February 13, 1984. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letter, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538.

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3225, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

Forms Submitted for Review

Title: SBA Field Office Evaluation of SBIC Applicants
Frequency: On Occasion
Description of Respondents: SBIC Companies
Annual Response: 230
Annual Burden Hours: 1,265
Type of Request: New

Title: Loan Inquiry Record
Form No. 149
Frequency: On Occasion
Description of Respondents: Loan applicants
Annual Responses: 240,000
Annual Burden Hours: 60,000
Type of Request: New

Title: Financial Statements of Borrowers
Frequency: Annually
Description of Respondents: Business borrowers
Annual Responses: 285,452
Annual Burden Hours: 71,363
Type of Request: New

Title: Liquidation Activities
Frequency: On occasion
Description of Respondents: Auctioneer contractor
Annual Responses: 3,400
Annual Burden Hours: 34,000
Type of Request: New

Title: Other Borrower Reports, Records, and Request
Frequency: On Occasion
Description of Respondents: Borrowers
Annual Responses: 216,000
Annual Burden Hours: 216,000
Type of Request: New

Title: Debt Collection Activities
Frequency: On occasion
Description of Respondents: Borrowers
Annual Responses: 4,680,000
Annual Burden Hours: 195,000

Type of Request: New
Title: Loan Servicing Field Visit Report
Form No. SBA 712
Frequency: On Occasion
Description of Respondents: Borrowers
Annual Responses: 70,000
Annual Burden Hours: 70,000
Type of Request: New
Title: Lender Field Visit Report
Form No. SBA 1183
Frequency: On occasion
Description of Respondents: Lenders
Annual Responses: 20,000
Annual Burden Hours: 20,000
Type of Request: New
Title: Nominate a Small Business Person or Advocate of the Year
Frequency: Annually
Description of Respondents: Trade associations, chambers of commerce and small business organizations
Annual Responses: 250
Annual Burden Hours: 600
Type of Request: New
Title: Small Business Week Media Contacts
Frequency: Annually
Description of Respondents: Publishers
Annual Responses: 512
Annual Burden Hours: 128
Type of Request: New

Dated: December 30, 1983.

Richard Vizachero,

Acting Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 84-504 Filed 1-6-84; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/702]

Shipping Coordinating Committee, Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Tuesday, February 7, 1984, in room 3906-3908 (Mall) Waterside Mall, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

The purpose of the meeting is to review and discuss the draft U.S. position documents for the Eighth Consultative Meeting of Contracting Parties to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Dumping Convention), to be held in London on February 20-24, 1984. The agenda will also include discussions on the outcome of the December 12-14, 1983 meeting of the Ad Hoc Group of Legal Experts on Dumping.

Members of the public may attend up to the seating capacity of the room.

For further information contact Ms. Norma Hughes, Executive Secretary, Committee on Ocean Dumping (WH-585), Environmental Protection Agency, Washington, D.C. 20460. Telephone: (202) 755-2927.

The Chairman will entertain comments from the public as time permits.

Dated: December 21, 1983.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 84-392 Filed 1-6-84; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/701]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative committee (CCITT) will meet on January 30, 1984, at 10:30 a.m., in Room 1408, Department of State, 2201 C Street, NW, Washington, D.C.

Study Group A deals with U.S. Government aspects of international telegram and telephone operations and tariffs. The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at international CCITT Study Group meetings, with particular interest in the upcoming February meeting of CCITT Joint Working Party on Maritime Mobile Service and future meetings of Study Groups I and III.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the department of State building is controlled. All persons wishing to attend the meeting should contact the office of Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: December 21, 1983.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

[FR Doc. 84-391 Filed 1-6-84; 8:45 am]

BILLING CODE 4710-07-M

Advisory Committee on International Investment, Technology, and Development; Closed Meeting

The Department of State will hold a meeting of the Working Group on Treatment of Investment and Special Investment Problems of the Advisory Committee on International Investment, Technology and Development on Tuesday, January 24, 1984, from 2:00 p.m. to 4:00 p.m. in Room 1406, Department of State, 2201 C Street, NW., Washington, D.C.

This meeting will be closed to the public, pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(C)(9)(B) because the Working Group will discuss the status of ongoing diplomatic negotiations, premature disclosure of which could adversely affect U.S. interests.

Dated: December 29, 1983.

Richard W. Behrend,

Economist, Office of Investment Affairs.

[FR Doc. 84-390 Filed 1-6-84; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 84-001]

Houston/Galveston Navigation Safety Advisory Committee; Applications for Membership

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership on the Houston/Galveston Navigation Safety Advisory Committee. This Advisory Committee was established under the authority of the Federal Advisory Committee Act (Pub. L. 92-463) and consults with, advises and provides recommendations to the Commander, Eighth Coast Guard District on areas of maritime safety in the Houston/Galveston area. The Committee was established on 16 September 1982 for a term of two years unless sooner terminated or extended.

In September of 1984 the Coast Guard anticipates that approximately 24 vacancies will occur on the Advisory Committee and that approximately 24 appointments will be made by the Secretary of Transportation. The Coast Guard will make recommendations to the Secretary from all applications on file as of 15 May 1984. The members chosen will include a balanced representation insofar as practical from the following groups: (1) Pilot

associations, (2) representatives of owners and operators of vessels (deep draft, fishing, and towboats), (3) professional mariners, (4) recreational boaters, (5) environmentalists, (6) port authorities, (7) federal & state officials with responsibility for vessel and port safety.

Since its establishment, the Advisory Committee has met five times, alternating between Houston and Galveston. The Committee has three scheduled meetings a year, with the provision for additional meetings on an as needed basis.

The appointments made during 1984 will expire two years from the date of appointment.

DATES: Requests for applications should be received no later than 28 February 1984. The applications must be completed and returned to the Coast Guard no later than 31 March 1984.

ADDRESSES: Persons interested in applying should write to Commander, Eighth Coast Guard District (mps), Rm. 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Commander R. A. Brunell, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District, Rm. 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130, (504) 589-6901.

Dated: December 30, 1983.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 84-467 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-14-M

[CGD 84-002]

Lower Mississippi River Waterway Safety Advisory Committee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App I) Notice is hereby given of the second meeting of the Lower Mississippi River Waterway Safety Advisory Committee. The meeting will be held on Tuesday, January 24, 1984 in the 29th Floor Boardroom of the International Trade Mart Building, 2 Canal Street, New Orleans, LA. The meeting is scheduled to begin at 9 a.m. and end at 4 p.m. The Agenda for the meeting consists of the following items:

1. Call to Order
2. Reports of Subcommittees
   a. Siting
   b. Auxiliary Waterways
   c. Lower Mississippi River
3. Discussion of Subcommittee Reports
4. Presentation of any additional items for consideration to the Committee
5. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander R. A. Brunell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Telephone number (504) 589-6901.

Dated: December 30, 1983.

W. H. Stewart,

Rear Admiral, U.S. Coast Guard.

[FR Doc. 84-468 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

National Airspace Review; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 1-3 of the Federal Aviation Administration (FAA) National Airspace Review Advisory Committee. The agenda for this meeting is as follows: FAR Part 75 should be reviewed and considered for possible exclusion from the regulatory process.

DATE: Beginning Monday, January 30, 1984, at 11 a.m., continuing daily, except Saturdays, Sundays, and holidays, not to exceed two weeks.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 7 A/B, 800 Independence Avenue, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Program Management Staff, room 1005, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 426-3569. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Advisory Committee, Air Traffic Service, AAT-1, 800 Independence Avenue, SW., Washington, D.C. 20591, by January 20, 1984. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C. on December 29, 1983.

Karl D. Trautmann,

Manager, Special Projects Staff, Air Traffic Service.

[FR Doc. 84-454 Filed 1-6-84; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Pub. L. 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, D.C. on January 31 and February 1, 1984, of the following debt management advisory committee:

Public Securities Association, U.S. Government and Federal Agencies Securities Committee

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meeting provides for a working session on January 31 and the preparation of a written report to the Secretary of the Treasury on February 1, 1984.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 101-5, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an

advisory committee under Pub. L. 92–463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by section 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee hearings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of Title 5 of the United States Code.

Dated: January 3, 1984.

Thomas J. Healy,

Assistant Secretary (Domestic Finance).

[FR Doc. 84-416 Filed 1-6-84; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

[Delegation Order No. 205]

Delegation of Authority; Criminal Investigation and Inspection Officials

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: Provides the authority to approve requests for consensual monitoring of telephone and non-telephone communications by Criminal Investigation and Inspection officials as delegated by the Commissioner. The text of the delegation order appears below.

EFFECTIVE DATE: December 16, 1983.

FOR FURTHER INFORMATION CONTACT:

Charles A. Gibb, OP:CI:P, Room 2427, Washington, D.C. 20224; (202) 566–3700, and

Joseph Reinbold, I:IS:M, 1111 Constitution Ave., NW., Room 6309, Washington, D.C. 20224; (202) 566–4701.

This document dos not meet the criteria for significant regulation set forth in paragraph 8 of the Treasury directive appearing in the Federal Register for Wednesday, November 8, 1978.

John M. Rankin,

Acting Assistant Commissioner (Criminal Investigation).

Robert L. Rebein,

Assistant Commissioner (Inspection).

Consenual Monitoring of Wire and Non-Wire Conversations in Criminal Investigations

Pursuant to the Authority vested in the Commissioner of Internal Revenue by Department of the Treasury Order No. 150–37 and in accordance with Memorandums (dated September 22, 1980 and November 7, 1983) to the Heads and Inspectors General of Executive Departments and Agencies, from the Attorney General, the authority to approve the inteception of verbal wire and non-wire communications, where at least one of the parties consents to the interception, is hereby delegated as follows:

1. The Assistant Commissioner (Inspection), Deputy Assistant Commissioner (Inspection), Director, Internal Security Division, Assistant Commissioner (Criminal Investigation) and Deputy Assistant Commissioner (Criminal Investigation) are authorized to approve the interception of non-telephone conversations with the consent of at least one party to the conversation in all criminal investigations conducted by the Internal Revenue Service except those specified by the Attorney General in the above memorandum dated November 7, 1983. This authority is contingent on prior approval by a local Department of Justice Attorney as defined in the above memorandum dated November 7, 1983. This authority may not be redelegated and may not be exercised by anyone acting on behalf of the delegated officials.

2. The Assistant Commissioner (Inspection), Deputy Assistant Commissioner (Inspection), Director, Internal Security Division, Assistant Commissioner (Criminal Investigation) and Deputy Assistant Commissioner (Criminal Investigation) are authorized to approve requests to intercept non-telephone communications with the consent of at least one party to the communication in those criminal investigations conducted by the Internal Revenue Service requiring prior written consent of the Attorney General or his/her designee. This authority is contingent on prior approval by a local Department of Justice Attorney as defined in the above memorandum dated November 7, 1983. This authority may not be redelegated and may not be exercised by anyone acting on behalf of the delegated officials.

3. The Assistant Commissioner (Inspection), Deputy Assistant Commissioner (Inspection), Director, Internal Security Division, Regional Inspections, Assistant Commissioner (Criminal Investigation) and Deputy Assistant Commissioner (Criminal Investigation) are authorized to approve interception of non-telephone conversations with the consent of at least one party to the conversation in all criminal investigations conducted by the Internal Revenue Service when exigent circumstances preclude obtaining prior written approval from the otherwise designated official. This authority may not be redelegated and may not be exercised by anyone acting on behalf of the delegated officials.

4. The Assistant Commissioner (Inspection), Deputy Assistant Commissioner (Inspection), Director, Internal Security Division, Chief, Investigations Branch, National Office (Internal Security), Regional Inspectors, Assistant Regional Inspectors (Internal Security), Chief, Criminal Investigation Division, District Director in streamlined Districts, and Director, Office of Intelligence, National Office (Criminal Investigation), are authorized to approve the interception of telephone conversations with the consent of at least one party to the conversation in all criminal investigations conducted by the Internal Revenue Service. This authority may not be redelegated.

5. Criminal Investigators (GS–1811 series) of the Internal Security Division or Criminal Investigation function, or persons acting under the direction of Criminal Investigators, are authorized to use monitoring equipment to intercept verbal wire and non-wire communications when approved by delegated officials in this Delegation Order. This authority may not be redelegated.

Dated: December 16, 1983.

James I. Owens,

Deputy Commissioner.

[FR Doc. 84-503 Filed 1-6-84; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

Bureau of Educational and Cultural Affairs, University Affiliation Program; Application Notice for Fiscal Year 1984

Correction

In FR Doc. 83-33653 beginning on page 56301 in the issue of Tuesday, December 20, 1983, make the following correction: In column three, paragraph three, line five, "and non-U.S." should appear between "U.S." and "colleges".

BILLING CODE 1505-01-M

Sunshine Act Meetings

Federal Register
Vol. 49, No. 5
Monday, January 9, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

Contents

1

CIVIL AERONAUTICS BOARD

[M-397; January 3, 1984]

TIME AND DATE: 10:00 a.m., January 10, 1984.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.
2. Docket 40201, *Employee Protection Program, Application on Behalf of Employees of Mackey International Airlines for determination of qualifying dislocation;* Order Denying Motion to Make Audit Reports Public. (Memo 501–I, OGC, BCAA)
3. Docket 41390, *California—Toronto/Montreal Service Case,* Opinion and Order on Review. (Memo 1834–A, OGC)
4. Final Rule on pre-certification sales by applicants for certificate authority. (OGC, BDA, OCCCA)
5. Delegation of authority to the Comptroller perform several ministerial functions related to the Debt Collection Act and Contract Disputes Act. (Memo 2162, OGC, MD, OC)
6. Docket 41723, Revision of Japan Charter Procedures. (OGC, BIA, BDA, OCCCA)
7. Docket 41757, Royale's 90-day notice of intent to suspend service at Greenwood and University/Oxford, Mississippi. (BDA, OCCCA)
8. Dockets 38503 and 38504, Tentative reselection of American Central Airlines, Inc. to provide essential air service to Clinton and Ottumwa, Iowa for a one-year period and establishment of a rate of compensation. (Memo 473–F, BDA, OCCCA)
9. Docket 41029, Six mainline points in Alaska on notice by Wien Air Alaska for which the Board by Order 83–3–117, dated March 24, 1983, requested interested carriers to submit proposals, with or without subsidy requests. (BDA, OCCCA)
10. Spantax, S.A.—petition for review of staff action denying a waiver of the financial security requirements of Part 212. (Memo 2121, BDA, BIA, OGC)
11. Docket 41665, Application of Pacific American Air Lines, Inc. for a two-year fitness review. (Memo 2157, BDA)
12. Commuter carrier fitness determination of Fort Worth Airlines, Inc. (Memo 2159, BDA)
13. Docket 40966, Application of Bidzy Ta Hot' Aana d/b/a Tanana Air Service under Subpart Q for a certificate authorizing scheduled air transportation of persons, property and mail in Alaska. (Memo 2114–A, BDA)
14. Docket 41758, Agreement CAB 29108, Agreement Among Members of the Air Traffic Conference of America (ATC) relating to reduced rate transportation for proceedings before the IATA Travel Agent Commissioner. (Memo 2154, BDA, OGC)
15. Docket 35634, Agreement CAB 29145 and Docket 38623, Agreement CAB 29144 IATA agreements proposing U.K.-U.S. cargo rate revisions and U.S.-Ethiopia fare increases. (Memo 2160, BIA)
16. Docket 41664, Application of Air National Aircraft Sales and Service, Inc. for issuance of a certificate of public convenience and necessity to engage in scheduled foreign air transportation. (Memo 2158, BIA, OGC, BALJ)
17. Docket 41190, Application of Trans Carib Air, Inc. for amendment of its certificate to engage in foreign air transportation. (Memo 2058–A, BIA, OGC, BALJ)
18. Scandinavian Aviation Issues. (BIA)
19. Canada Route Exchange. (BIA)
20. Charter Service to/from Ireland. (BIA)
21. Luxembourg Aviation Issues. (BIA)
22. Dockets 41830, 41831 and 41832; Agreement CAB 27693–A6, Applications of Pan American World Airways and Saudi Arabian Airlines Corporation for approval of an extension of their blocked-space agreement and renewal of their exemption authorities to permit the carriers to continue to jointly provide combination New York-Dhahran service. (BIA).
23. Discussion on Japan. (BIA)

STATUS: 1–17 Open, 18–23 Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673–5068.

[S–84–510 Filed 1–5–84; 10:10 am]

BILLING CODE 6320–01–M

2

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 56304.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, January 11, 1984.

CHANGES IN THE MEETING: Add to the agenda—Chicago Mercantile Exchange's Application to trade Standard and Poors Energy Index Futures.

Jane K. Stuckey,
Secretary of the Commission.

[S–84–512 Filed 1–5–84; 10:20 am]

BILLING CODE 6351–01–M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, Janaury 11, 1984.

LOCATION: Third Floor Hearing Room 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Children's Sleepwear: Final Labeling Amendment*
   The Commission will consider final rules to amend requirements for children's sleepwear to permit manufacturers, under certain conditions, to place precautionary care instructions, required by regulations, on the reverse side of the label.
2. *Expandable Enclosures: Final 30(d) Rule*
   The Commission will consider whether to publish a final 30(d) rule allowing expandable enclosures to be regulated under the Consumer Product Safety Act rather than the Federal Hazardous Substances Act.
3. *Squeeze Toys: 30(d) Rule*
   The staff will brief the Commission on issuance of a final rule under provisions of section 30(d) of the Consumer Product Safety Act to transfer regulation of risks of choking and suffocation injuries associated with these toys from the Federal Hazardous Substances Act to the Consumer Product Safety Act.
4. *Bassinets: 30(d) Rule*
   The staff will brief the Commission on issuance of a proposed rule under section 30(d) of the Consumer Product Safety Act in order to transfer regulation of risks of injury associated with collapse of baby bassinets from the Federal Hazardous Substances Act to the Consumer Product Safety Act.

For a recorded message containing the latest agenda information, call: 301–492–5709

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office

of the Secretary, 5401 Westbard Avenue, Bethesda, Md. 20207, 301–492–6800.

January 4, 1984.

Sadye E. Dunn,

Secretary.

[S-84-544 Filed 1-5-84; 3:21 pm]

BILLING CODE 6355-01-M

4

CONSUMER PRODUCT SAFETY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 187 January 3, 1984.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Thursday, January 5, 1984.

STATUS: Open/Closed.

MATTER TO BE CONSIDERED:

Open to the public:

1. Fiscal Year 1985 Budget: The Commission will consider issues related to the budget for fiscal year 1985.

Closed to the public:

2. Policy on Release on Consumer Complainant Data: The Commission will consider issues related to the release of consumer complainant data.

3. Enforcement Matter OS #5087: The staff will brief the Commission on issues related to enforcement matter OS #5087.

For a recorded message containing the latest agenda information: Call 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301–492–6800.

Dated: January 4, 1984.

Secretary, Sadye E. Dunn,

Consumer Product Safety Commission.

[S-84-583 Filed 1-5-84; 3:21 pm]

BILLING CODE 6355-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:30 a.m. on Wednesday, January 4, 1984, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider the following matters:

Application of Bank of Commerce, Morristown, Tennessee, an insured State nonmember bank, for consent to merge, under its charter and title, with City and County Bank of Jefferson County, White Pine, Tennessee, and Southern Industrial Banking Corporation, Knoxville, Tennessee, and for consent to establish the sole office of City and County Bank of Jefferson County and the nine offices of Southern Industrial Banking Corporation as branches of Bank of Commerce.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,847-L (Amended)—United American Bank in Hamilton County, Chattanooga, Tennessee, and United American Bank in Knoxville, Knoxville, Tennessee

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: January 4, 1984.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-84-584 Filed 1-5-84; 3:21 pm]

BILLING CODE 6714-01-M

6

FEDERAL ENERGY REGULATORY COMMISSION

Notice

January 4, 1984.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

TIME AND DATE: 10:00 a.m., January 11, 1984.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda

783rd Meeting—January 11, 1984

Regular Meeting (10:00 a.m.)

CAP-1: Project No. 7532-000, Farmers Irrigation District

CAP-2: Project No. 7390-000, Harder Farms, Inc. and Scott Ranch

CAP-3: Project No. 7548-000, Geo-Bon #2 Hydro Project

CAP-4: Project No. 7539-000, Little Wood Ranch Hydro Project

CAP-5: Project No. 7437-000, Capital Development Company

CAP-6: Project No. 2545-011 (Phase II), the Washington Water Power Company

CAP-7: Project No. 193-024, South Carolina Public Service Authority

CAP-8: Project No. 7570-003, Calaveras Public Utility District

CAP-9:
- Project No. 3524-004, Western Water Power, Inc.
- Project No. 3950-001, Energenics Systems, Inc.
- Project No. 4393-001, Yuma County Water Users' Association
- Project No. 4411-002, City of McFarland, California
- Project No. 4420-001, Imperial Irrigation District

CAP-10: Project No. 6586-004, Aquenergy Systems, Inc.

CAP-11: Project No. 2725-012, Georgia Power Company

CAP-12:
- Project No. 6936-000, Tranquillity Irrigation District
- Project No. 7356-001, Calaveras County Water District, Tuolumne Regional Water District and Tuolumne County, California

CAP-13:
- Project No. 2787-003, White Current Corporation
- Project No. 2816-001, Vermont Electric Generation & Transmission Cooperative, Inc.

CAP-14:
- Project Nos. 5887-003 and 004, Long Lake Energy Corporation
- Project No. 4936-001, New York State Electric and Gas Corporation
- Project No. 5685-001, Essex County Industrial Development Agency

CAP-15: Project No. 7259-001, China Flat Company

CAP-16: Omitted

CAP-17:
- Project No. 935-000, Pacific Power and Light Company
- Project No. 2791-000, Clark-Cowlitz Joint Operating Agency

CAP-18: Docket No. ER80-363-005, Delmarva Power and Light Company

CAP-19: Docket No. ER82-673-006, Kentucky Utilities Company

CAP-20: Docket No. ER83-765-000, Carolina Power & Light Company

CAP-21: Docket No. ER83-420-000, Northern States Power Company (Wisconsin)

CAP-22: Docket No. ER83-656-002, Kentucky Utilities Company

Consent Miscellaneous Agenda

CAM-1: Docket No. FA84-4-000, Connecticut Yankee Atomic Power Company
CAM-2: Docket Nos. RM83-73-001, 002, 003, 004 and 005, Standard Form for Purchased Gas Adjustment Filing Submitted by Natural Gas Pipeline Companies FERC Form No. 542-PGA
CAM-3: Docket No. RM79-76-212 (Texas-38), High-Cost Gas Produced From Tight Formations
CAM-4: Docket No. GP82-46-001, Getty Oil Company

Consent Gas Agenda

CAG-1: Docket No. RP84-34-000, Midwestern Gas Transmission Company
CAG-2: Docket Nos. RP84-11-001 and 003, Columbia Gas Transmission Corporation
CAG-3: Docket No. RP84-14-001, Northwest Central Pipeline Corporation
CAG-4: Docket No. RP83-68-004, Natural Gas Pipeline Company of America
CAG-5: Docket No. RP82-56-009, Northwest Pipeline Corporation
CAG-6: Docket No. TA83-2-31-001 (PGA83-2, IPR83-2), Arkansas Louisiana Gas Company, a Division of Arkla, Inc.
CAG-7: Docket Nos. RP77-98-016 and RP78-78-000, Natural Gas Pipeline Company of America
CAG-8: Docket No. RP78-62-000 (Reserved Issues), Panhandle Eastern Pipe Line Company
CAG-9: Docket No. RP80-97-000, et al., Tennessee Gas Pipeline Company
CAG-10: Docket No. RP82-56-000, Northwest Pipeline Corporation
CAG-11: Docket No. RP82-80-000, RP83-79-000, CP82-542-000, TA81-2-48-000, TA82-1-48-000, TA82-2-48-000, TA83-1-48-000, TA83-2-48-000 and TA84-1-48-000, Michigan Wisconsin Pipe Line Company
CAG-12: Docket No. RI83-8-007, Mobil Oil Corporation and Northern Natural Gas Producing Company
CAG-13:
Docket No. CI83-267-001, Texaco Producing Inc.
Docket No. G-11229-002, Arco Oil and Gas Company, Division of Atlantic Richfield Company
CAG-14:
(A) Docket No. CS68-48-001, Maruch-Foster Corporation and BFO Energy, Inc. (Baruch-Foster Corporation)
Docket No. CS71-515-002, Howell Petroleum Corporation, (Petro-Search, Inc.)
(B) Docket No. CS84-3-001, Park Oil & Gas, Inc.
CAG-15:
Docket No. CI84-12-001, Mesa Petroleum Company
Docket No. CI84-7-001, Southland Royalty Company
Docket No. CI84-11-001, Odeco Oil & Gas Company
Docket No. CI83-448-001, McMoran Offshore Exploration Company
Docket No. CI84-37-001, Tenneco Oil Company, Manager for Houston Oil & Minerals Corporation
Docket No. CI77-210-005, Arco Oil and Gas Company, Division of Atlantic Richfield Company
Docket No. CI83-443-002, Texaco Inc.
CAG-16: Docket Nos. CI83-297-000 and 001, Eastern American Energy Corporation
CAG-17: Docket No. CI83-219-000 and CI74-577-000, Phillips Petroleum Company
CAG-18: Docket No. RI74-188-003, RI74-188-004 and RI75-21-002, Independent Oil & Gas Association of West Virginia
CAG-19: Docket No. RI74-188-019 and RI75-21-014, Independent Oil & Gas Association of West Virginia
CAG-20: Docket No. CP81-302-003, CP81-302-005, CP81-302-006, CP81-303-006, CP81-303-008, CP81-303-009, CP81-494-003, CP81-494-004, CP82-392-001, CP82-392-002, CP82-392-004 and CP83-429-000, Natural Gas Pipeline Company of America
CAG-21: Docket No. CP83-209-001, Natural Gas Pipeline Company of America
CAG-22:
Docket No. CP76-362-009, Texas Eastern Transmission Corporation, et al.
Docket No. CP82-255-004, Transcontinental Gas Pipe Line Corporation
CAG-23: Docket No. CP81-330-003, United Gas Pipe Line Company, Columbia Gulf Transmission Company and Southern Natural Gas Company
CAG-24: Omitted
CAG-24:
Docket No. CP74-147-003, Michigan Wisconsin Pipe Line Company and Midwestern Gas Transmission Company
Docket No. CP75-155-002, Wisconsin Gas Company
Docket No. CP76-84-001, Northern States Power Company (Wisconsin)
CAG-26: Docket Nos. CP82-379-000 and 001, Delhi Gas Pipeline Company
CAG-27: Docket No. CP83-380-000, Lone Star Gas Company, a Division of Enserch Corporation
CAG-28:
Docket No. CP83-377-000, West Texas Gas, Inc. and Peoples Natural Gas Company, Division of Internorth, Inc.
Docket No. CP83-487-000, Colorado Interstate Gas Company
CAG-29: Docket No. CP83-447-000, Valero Transmission Company
CAG-30: Docket No. CP83-492-000, the Inland Gas Company, Inc.
CAG-31:
Docket Nos. CP82-79-001, CP82-241-001 and CP82-282-001, Mountain Fuel Supply Company
Docket No. CP83-387-000, Columbia Gulf Transmission Company
CAG-32: Docket No. CP82-479-001, Northwest Central Pipeline Corporation
CAG-33:
Docket Nos. CP70-119-000, et al., and CP75-274-001, Natural Gas Pipeline Company of America
Docket Nos. CP72-185-000 and 002, Michigan Wisconsin Pipeline Company
CAG-34: Docket No. ST83-627-000, Producer's Gas Company
CAG-35: Docket No. ST80-109-002, Cranberry Pipeline Corporation
CAG-36: Docket No. RP84-36-000, West Lake Arthur Corporation

Power Agenda

I. Licensed Project Matters

PI-1:
Project No. 5838-000, Picket Hydro Associates
Project No. 6517-000, Blackstone, Virginia
P-2: Omitted

II. Electric Rate Matters

ER-1: Docket No. ER84-102-000, Montaup Electric Company
ER-2: Docket No. ER84-91-000, Delmarva Power and Light Company
ER-3: Docket No. ER81-779-004, Pennsylvania Power Company
ER-4: Docket Nos. ER81-450-000 and ER81-461-000 (Consolidated) Union Electric Company and Missouri Edison Company
ER-5:
Docket Nos. ER77-485-000 and ER77-551-000, Carolina Power & Light Company
Docket No. E-9606-000, North Carolina Electric Membership Corporation, Four County Electric Membership Corporation, Electriccities of North Carolina, and cities of Bennetsville and Camden, South Carolina
ER-6: Docket No. E-9206-003, McDowell County Consumers Council, Inc. v. American Electric Power Company, et al.
ER-7: Docket Nos. ER83-694-001 and 002, West Texas Utilities Company
ER-8: Docket Nos. EF84-2011-002, EF82-2011-003, EF84-2011-004, EF84-2011-005, EF84-2021-002, EF84-2021-003, EF84-2021-004, and EF84-2021-005, U.S. Department of Energy—Bonneville Power Administration
ER-9: Docket No. EL83-11-000, Virginia Electric & Power Company

Miscellaneous Agenda

M-1: Docket No. RM83-56-000, Application for License, Permit and Exemption From Licensing for Water Power Projects
Docket No. RM83-76-000, Ratemaking Treatment of Investment Tax Credits for Electric Utilities
M-3: Reserved
M-4: Reserved
M-5:
(A) Docket No. RM80-33-001, Final Rule for Btu Measurement Standard Under the Natural Gas Policy Act of 1978
(B) Docket No. RM84-6-000, Refunds Resulting From Btu Measurement Adjustments
(C) Docket Nos. TA82-2-21-000 and TA83-1-21-002, et al., Columbia Gas Transmission Corporation
Docket No. RM80-33-000, Final Rules For Part 270, Subpart B, Section 270.201, 270.202 and 270.204
Docket Nos. TA82-2-29-001 and TA83-2-29-000, et al., Transcontinental Gas Pipe Line Corporation
Docket Nos. TA82-2-17-000 and TA83-1-17-003, et al., Texas Eastern Transmission Corporation
Docket No. TA82-2-9-000, et al., Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
M-6: Omitted
M-7: Omitted

M-8: Docket No. RM83-78-000, Transfer of Oil Pipeline Regulations
M-9: RM83-71-000, Elimination of Variable Costs From Certain Natural Gas Pipeline Minimum Commodity Bill Provisions
M-10: RM5-7-000, Competitive Impacts of Industrial Sales Programs

Gas Agenda

I. Pipeline Rate Matters

RP-1:
Docket Nos. TA81-1-21-001, TA81-2-21-001, and RP82-120-006, Columbia Gas Transmission Corporation
Docket Nos. RP82-119-003, Columbia Gas Transmission Company
RP-2: Docket Nos. TA82-1-21-001, TA82-2-21-000, TA83-1-21-000 and 002, TA83-2-31-000, RP82-120-000 and 004, and RP82-119-000, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company
RP-3: Docket No. RP83-12-000, Columbia Gas Transmission v. Kentucky West Virginia Gas Company
RP-4:
Docket No. RP83-106-001, Transwestern Pipeline Company
Docket No. RP81-130-007, et al., Transwestern Pipeline Company
Docket No. RP83-113-001, Pacific Gas Transmission Company
Docket No. RP83-135-001 and 005, Pacific Interstate Transmission Company
Docket No. RP83-136-001 and 005, Pacific Offshore Production Company
Docket No. RP84-28-000, Pacific Interstate Offshore Company
RP-5: Docket No. RP83-85-000, Northwest Central Pipeline Corporation v. Arkansas Louisiana Gas Company, A Division of Arkla, Inc.
RP-6:
Docket No. RP83-10-000, the Inland Gas Company, Inc. v. Tennessee Gas Pipeline Company
Docket No. RP83-20-000, Tennessee Gas Pipeline Company v. the Inland Gas Company, Inc.
Docket No. RP83-8-000, Columbia Gas Transmission Corporation V. Tennessee Gas Pipeline Company
Docket No. RP83-19-000, Tennessee Gas Pipeline Company v. Columbia Gas Transmission Corporation
RP-7: Docket Nos. RP81-130-004, RP83-25-006, TA82-2-42-010 and TA83-1-42-002, Transwestern Pipeline Company
RP-8: Docket No. RP80-136-000, Southern Natural Gas Company
RP-9: Docket No. RP83-22-000, EL Paso Natural Gas Company
RP-10: Docket Nos. RP83-139-001 and 002, El Paso Natural Gas Company
RP-11: Docket Nos. RP79-23-016, 017, RP79-24-010 and RP81-34-005, Distrigas of Massachusetts Corporation
RP-12: Omitted
RP-13:
Docket Nos. RP83-11-004 Through 013 and RP83-30-000 Through 010, Transcontinental Gas Pipe Line Corporation
Docket Nos. CP83-279-003 Through 008, Producer-Suppliers of Transcontinental Gas Pipe Line Corporation
Docket Nos. CP83-340-003 Through 009, Producer-Suppliers of Transco Gas Supply Company
Docket Nos. CP83-428-001 Through 008, Producer-Suppliers of Transco Gas Supply Company and Transcontinental Gas Pipe Line Corporation
RP-14: Docket No. CP83-152-001, et al., Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company
RP-15: Docket No. OR78-1-013 (Quality Bank), Trans Alaska Pipeline System

II. Producers Matters

CI-1: Docket NoCI83-269-000 Through 010, Tenneco Oil Company, Houston Oil & Minerals Corporation, Tenneco Exploration, Ltd., Tennco Exploration II, Ltd., and Tinco, Ltd.
CI-2: Docket No. CI83-257-000, MGF Oil Corporation

III. Pipeline Certificate Matters

CP-1: Docket Nos. CP80-17-000, CP80-17-001 and CP80-17-002 (Phase I), Trans-Anadarko Pipeline System
CP-2: Docket No. CP83-410-003, Consolidated Gas Supply Corporation
CP-3: Docket Nos. CP79-80-000, Consolidated Gas Supply Corporation
CP-3:
Docket No. CP79-80-000 and 018, Trailblazer Pipeline Company
Docket No. CP82-555-000, Natural Gas Pipeline Company of America, Northern Natural Gas Company, Division of Internorth, Inc., and Columbia Gas Transmission Corporation
Docket Nos. CP79-80-007 and 019, Overthrust Pipeline Company
Docket No. CP80-7-002, Mountain Fuel Supply Company
Docket No. CP82-450-002, Colorado Interstate Gas Company
CP-4:
Docket No. CP83-131-000 and CP33-131-001, Northern Natural Gas Company, a Division of Internorth, Inc.
Docket No. CI83-179-000, Amoco Production Company
CP-5: Docket No. CP83-370-000, United Gas Pipe Line Company
CP-6: Docket No. CP75-23-020 and CP75-120-013, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

Kenneth F. Plumb,

Secretary.

[S-84-505 Filed 1-5-84; 3:21 pm]
BILLING CODE 6717-01-M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9:00 a.m., January 11, 1984.

PLACE: Hearing Room One—1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion open to the public:

1. Sea-Land Service, Inc. 13.5% General Rate Increase in Trades between U.S. Atlantic and Gulf Ports and Puerto Rico.

Portion closed to the public:

1. Docket No. 82-3: South Atlantic-North Europe Rate Agreement (Agreement No. 9384-23)—Gulf European Freight Association (Agreement No. 10270-2)—Consideration of the Record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-84-511 Filed 1-5-84; 10:15 am]
BILLING CODE 6730-01-M

8

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 4, 1984.

TIME AND DATE: Wednesday, January 11, 1984 10:00 a.m.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Allied Chemical Corporation, Docket No. WEST 81-353-M. (Issues include consideration of the administrative law judge's motion to permit his entry of an amended decision approving a settlement.)
2. Allied Chemical Corporation, Docket No. WEST 81-362. (Issues include consideration of the administrative law judge's motion to permit his entry of an amended decision approving a settlement.)
3. A. H. Smith Co., Docket No. YORK 81-67-M (Issues include whether the administrative law judge erred in concluding that the operator violated 30 C.F.R. § 56.5-50, a mandatory standard that regulates miners' exposure to noise.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, agenda clerk (202) 653-5632.

[S-84-503 Filed 1-5-84; 3:21 pm]
BILLING CODE 6735-01-M

9

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-84-2]

A majority of the Board determined by recorded vote that the business of the Board required holding this meeting on less-than-normal notice and that no earlier announcement was possible.

TIME AND DATE: 9 a.m., Tuesday, January 10, 1984.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report:* Multiple Vehicle Collisions and Fires Under Limited Visibility Conditions, Interstate Route 75, Ocala, Florida, February 28, 1983.
2. *Regulations*—Revision of Appendix (Fee Schedule) to 49 CFR Part 801.
3. *Reconsideration of Probable Cause:* File No. 3–3509; Galena, Alaska, March 27, 1981.
4. *Reconsideration of Probable Cause:* Airplane Accident; Cessna 441, N36941, Butte, Montana, April 1, 1980.
5. *Aviation Brief of Accident:* File No. 1652, N27524, Bell 206B, Larkspur, Colorado, December 7, 1982.
6. *Briefs of Major Field Aviation Accident Investigation:* Rockport, Texas; Glendale, Arizona; and Bevand, N.C.).
7. *Marine Summary Reports*
8. *Recommendation* regarding the ignition of ammonium nitrate during repairs to a box car at the Norfolk and Portsmouth Beltline Railroad Yard in Portsmouth, Virginia, October 4, 1983.
9. *Recommendations* to the Governor of Alaska, Mayor of the Municipality of Anchorage, the Anchorage Area Utility Association, and the Enstar Natural Gas Company concerning natural gas pipeline accidents at Anchorage, Alaska, on October 7, 1982, and June 15, 1983.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

H. Ray Smith, Jr.,
Federal Register Liaison Officer.
January 5, 1984.
[FR Doc. 84–581 Filed 1–5–84; 3:21 pm]
BILLING CODE 4910–58–M

10

NATIONAL TRANSPORTATION SAFETY BOARD

[NM–84–3]

TIME AND DATE: 9 a.m., Thursday, January 19, 1984.

PLACE: NTSB Board Room, 8th Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* U.S. Bulk Carrier MARINE ELECTRIC Capsizing and Sinking, about 30 nautical miles east of Chincoteague, Virginia, February 12, 1983.
2. *Recommendations* to the American Bureau of Shipping, the U.S. Coast Guard, and the Federal Communications Commission re Capsizing and Sinking of the U.S. Bulk Carrier MARINE ELECTRIC.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, (202) 382–6525.

H. Ray Smith, Jr.,
Federal Register Liaison Officer.
January 5, 1984.
[S–84–532 Filed 1–5–84; 3:21 pm]
BILLING CODE 4910–58–M

Federal Register

Monday
January 9, 1984

Part II

Department of Agriculture

Office of the Secretary

Special and Alcohol Fuels Research Grants Programs for Fiscal Year 1984, Solicitation of Applications; Notice

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Special and Alcohol Fuels Research Grants Programs for Fiscal Year 1984, Solicitation of Applications

Special Research Grants Program

Notice is hereby given that under the authority of section 2(c)(1) of the Act of August 4, 1965, Pub. L. 89–106, as amended (7 U.S.C. 450i(c)(1)), the Cooperative State Research Service (CSRS) of the U.S. Department of Agriculture (USDA) will award project grants for certain areas of research. Fundamental and innovative approaches will be sought for the resolution of program problem areas. The total amount available for this program during the Fiscal Year 1984 is approximately $7,898,562. This solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications. See Appendix I for application procedures. The research to be supported is the following areas:

Soybean Research, $499,445
CSRS Contact: Dr. C. B. Rumburg;
Telephone (202) 447–6074
Animal Health Research, $6,899,672
CSRS Contact: Dr. Earl Splitter;
Telephone (202) 447–5007
Aquaculture Research, $499,445
CSRS Contact: Dr. Howard S. Teague;
Telephone (202) 447–3847

As outlined by OMB Circular No. A–89, the official program number and title for the Special Research grants are: 10.200, Grants for Agricultural Research, Special Research Grants.

Alcohol Fuels Research Grants Program

In addition, notice is hereby given that pursuant to the authority of section 1419 of the Food and Agriculture Act of 1977, Pub. L. 95–113, as amended (7 U.S.C. 3154), CSRS, USDA, will award project grants for research in the area of alcohols and industrial hydrocarbons from agricultural commodities and forest products and agricultural chemicals. The total amount available for this program during Fiscal Year 1984 is approximately $520,657. This solicitation is being announced to allow adequate time for potential recipients to prepare and submit applications. See Appendix I for application procedures. The research to be supported is in the following area:

Alcohol Research, $520,657
CSRS Contact: Dr. Wayne K. Murphey;
Telephone (202) 447–2044

The Alcohol program funds are intended to stimulate and support energy-related research. Such research is national in scope, is not designed to meet the needs or address the problems of a particular State, area or locality, does not include demonstration or pilot research projects, and does not involve capital construction.

As outlined by OMB Circular No. A–89, the official program number and title for the Alcohol Research grants are 10.208, Alcohol Fuels Research.

Proposals submitted in response to this notice will be evaluated in competition with proposals from other institutions. Grants will be awarded for research proposals selected by CSRS, utilizing recommendations of Peer Panels, from funds appropriated for Fiscal Year 1984 (October 1, 1983 through September 30, 1984). Projects may be up to 5 years' duration unless a shorter duration is specified.

Subject Matter Guidelines for Fiscal Year 1984, Grants Under section 2(c)(1) of Pub. L. 89–106 as amended and section 1419 of Pub. L. 95–113, as amended

A. The applicable program should be indicated in Block 7 and the applicable program area and specific area of inquiry should be indicated in Block 8 of Form S&E–661 provided in the Research Grant Application Kit. Select one program and one program area only. The final determination of the program and program area will be made by the program staff and/or the appropriate panel. The number assigned to the specific area of inquiry must also be cited, if applicable (e.g., 2.1, 2.2), in Block 8 of Form S&E–661.

B. Information concerning the selection of proposals for funding is included in Appendix II. The appropriate format for preparation of the proposal is described in Appendix III. Appendix IV shows the scoring form which will be utilized by peer panel members and Appendix IV–A provides general information concerning proposal evaluation and grant administration. Detailed descriptions of the program areas to be supported follow.

Special Research Grants Program: Program Areas

1.0 Soybean Research. The total amount expected to be available for soybean research during Fiscal Year 1984 is $499,445. Grant awards will be limited to a maximum of $100,000 for the support of any project in this program area. proposals requesting in excess of $100,000 will not be evaluated. Proposals submitted for funding should address the following specific areas of inquiry.

1.1 Soybean production research to sustain or increase yields and conserve natural resources. Preference will be given to strategies with broad or national implications.

1.2 Research on soybean genetic mechanisms contributing to tolerance to biotic and abiotic stress.

2.0 Animal Health. The total amount expected to be available for this area during Fiscal Year 1984 is $6,899,672. These funds will be awarded to support research seeking solutions to health problems of livestock and poultry and major aquaculture species. Grant awards will be limited to a maximum of $150,000 for the support of any project in this program area. Proposals requesting in excess of $150,000 will not be evaluated. The overall objective of this research is to develop and/or refine abiotic and biotic methodologies for suppression of animal losses due to infectious and noninfectious diseases and internal and external parasites of livestock, poultry, and major aquaculture species.

Research should be directed toward (1) basic and applied studies to clarify infectious and noninfectious diseases and parasites or their interactive effects on animal health; and (2) development of practical implementable management systems for the producer to prevent or alleviate these causes of animal losses. Research may include clarification of complex or unknown etiologies including nutritional genetic and environmental interactions; development of improved methods of detecting disease agents or antibiodies in animals, animal products, tissues, etc.; clarification of disease pathogenesis; determination of methods of disease transmission including transmission by embryo transfer, artificial insemination and importation of animal products—such studies should mimic as close as possible the normal conditions of collection, preparation and use of these items; development of improved methods of immunization against disease agents that will provide solid and persistent protection without compromising diagnosis; development of alternative pest eradication methods so as to limit the use and dependence on biotoxic substances—such alternatives may include biologic methods, sterile male techniques, artificial pheromones, etc.; and development of other disease prevention, control and eradication technology.

The specific areas of inquiry in which projects will be funded are listed below. The areas are broken down into subcategories which will be funded in the approximate amounts listed. In the event that there are insufficient meritorious proposals recommended by peer panels to utilize all funds in each

specific area of inquiry or in each subcategory, the balance of any such funds will be awarded to meritorious proposals recommended by peer panels under the other subcategories within the specific area of inquiry or the other specific areas of inquiry. Utilizing the recommendations of the peer panels, the Administrator of CSRS will make the final determination on specific grants to be awarded. Only proposals dealing with the following specific areas of inquiry will be selected for funding:

2.1 Beef Cattle. (1) Respiratory diseases complex. (Approximately 17 percent of available funds).

(2) Reproductive diseases, especially brucellosis and including but not limited to anestrus, leptospirosis and vibriosis. (Approximately 12 percent of available funds).

(3) Enteric diseases, including but not limited to Johne's Disease. (Approximately 8 percent of available funds).

(4) Parasites (internal and external), including but not limited to anaplasmosis, ticks, flukes, nematodes and interactive effects of internal and external parasites. Metabolic diseases, especially bloat, grass tetany and mineral imbalance. (Approximately 4 percent of available funds).

2.2 Diary Cattle. (1) Mastitis. (Approximately 6 percent of available funds).

(2) Reproductive diseases, including but not limited to brucellosis and nondetected estrus. (Approximately 5 percent of available funds).

(3) Respiratory diseases. (Approximately 3 percent of available funds).

(4) Digestive and enteric diseases, including but not limited to Johne's Disease. (Approximately 2 percent of available funds).

(5) Foot Rot. (Approximately 2 percent of available funds).

2.3 Swine. (1) Enteric diseases. Viral enteritis, coccidiosis, salmonellosis, colibacillosis and proliferative enteritis. (Approximately 5 percent of available funds).

(2) Respiratory diseases. Hemophilus pleuropneumonia, mycoplasma pneumonia, atrophic rhinitis, and *Pasteurella multocida*. (Approximately 5 percent of available funds).

(3) Reproductive diseases. Parvovirus, Mastitis-metritis-agalactia, pregnancy loss and anestrus. (Approximately 4 percent of available funds).

(4) Other swine diseases. Trichinosis, pseudorabies, parasites, mycotoxicosis, and lameness. (Approximately 4 percent of available funds).

2.4 Poultry. (1) Respiratory diseases. (Approximately 5 percent of available funds).

(2) Metabolic and immunologic diseases. (Approximately 4 percent of available funds).

(3) Enteric disorders. (Approximately 4 percent of available funds).

2.5 Sheep and Goats. Bluetongue, foot rot, chlamydial polyarthritis, gastrointestinal parasites, caseous lymphadenitis, pneumonia, mastitis, bacterial scours, ram epididymitis and predator control. (Approximately 5 percent of available funds).

2.6 Horses. Especially respiratory diseases, and including but not limited to enteric diseases, reproductive diseases, and musculoskeletal diseases (especially laminitis and lameness). (Approximately 3 percent of available funds).

2.7 Aquaculture. Infectious diseases and parasites. (Approximately 2 percent of available funds).

3.0 Aquaculture Research. The total amount expected to be available for this area during Fiscal Year 1984 is $499,445. Grant awards will be limited to a maximum of $80,000 for the support of any project in this program area. Proposals requesting in excess of $80,000 will not be evaluated. The objective of this research is to provide and improve upon the scientific and technical base needed by the aquaculture industry.

Increased production of commercially important species such as catfish, trout, bait minnows, crawfish and freshwater shrimp will be included. Proposals focused on aquaculture production in the following specific areas of inquiry will be considered:

3.1 Improved production efficiency in diet formulation, reproduction and breeding, and disease and parasite control.

3.2 Improved water quality for production and factors affecting the quality of water discharge.

Alcohol Fuels Research Grants Program

4.0 Alcohol Research. The total amount expected to be available for this program during Fiscal Year 1984 is $520,657. Grant awards will be limited to a maximum of $80,000 for the support of any project in this program area of 2 or 3 years' duration. Proposals requesting in excess of $80,000 or proposing a project period of more than 3 years will not be evaluated. This program will cover research on the evaluation (including economic), treatment, and conversion of biomass resources for manufacture of alcohol.

At least 25 percent of these funds shall be made available for research relating to the production of alcohol, to identify and develop agricultural commodities (including alfalfa, sweet sorghum, black locust and cheese whey) which may be suitable for such production. At least 25 percent of these funds shall be made available for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including processes of cellulose conversion and cell membrane technology.

It has been determined that, because of the need to implement these programs so that research relating to plant production can be initiated in the spring of 1984, compliance with the Notice and public procedure provisions of 5 U.S.C. 553 is impracticable and contrary to the public interest. Further, this action has been reviewed under Executive Order 12291 and it has been determined that this is not a major rule. Although this Notice establishes the procedures and criteria under which the recipients of Special and Alcohol Fuels Research grants in Fiscal Year 1984 will be selected, and the terms and conditions under which such grants will be administered, it does not involve a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

Done at Washington, D.C., this 16th day of December 1983.

Orville G. Bentley,

Assistant Secretary for Science and Education.

Appendix I—Application Procedures

1. Eligible Institutions

Special Research Grants Program. Grants under section 2(c)(1) of Pub. L. 89-106, as amended, may be made to land-grant colleges and universities, research foundations established by land-grant colleges and universities, State agricultural experiment stations, and to all college and universities having a demonstrable capacity in food and agricultural research.

Alcohol Fuels Research Grants Programs. Grants under section 1419 of Pub. L. 95-113, as amended, may be made to any college, university, Government corporation or Federal laboratory. Research foundations are not eligible to receive research grants under section 1419 of Pub. L. 95-113 unless they independently meet the definition of college and university as set out in section 1404 of Pub. L. 95-113, as amended.

Section 1404 of Pub. L. 95–113, as amended (7 U.S.C. 3103) defines "college" and "university" as an educational institution in any State which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State to provide a program of education beyond secondary education, (C) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (D) is a public or other nonprofit institution, and (E) is accredited by a nationally recognized accrediting agency or association.

Foreign universities or colleges are not eligible under either of the above programs.

2. Proposal Submission

A. Before submission, write or call the Grants Administrative Management office (address and telephone number below) for a copy(ies) of the Research Grant Application Kit.

Proposals should be submitted to the Grant Administrative Management office at the address shown below. Your submission should include an orginal and 19 copies of the proposal and Form S&E–661, Grant Application, which is included in the Research Grant Application Kit. The Form S&E–661 submitted with the original proposal should have original signatures of the principal investigator(s) and the authorized organizational representative. CSRS must have original signatures on file for each application. A principal investigator whose signature does not appear on the Grant Application will not be listed as a principal investigator in the event of an award.

Grants Administrative Management, Office of Grants and Program Systems, U.S. Department of Agriculture, West Auditors Building, Room 010, 15th & Independence Ave., SW., Washington, D.C. 20251, Telephone: (202) 475–5049

All copies of the proposal should be mailed in one package, if at all possible. Due to the volume of proposals received, proposals submitted in several packages are very difficult to identify. If copies of the proposal *are* mailed in more than one package, the number of packages should be marked on the outside of each. It is important that *all packages be mailed at the same time.* The acknowledgement of receipt of the proposal will contain a proposal number and title. Later inquiries, addenda, etc., should include this information.

However, every effort should be made to *ensure* that the proposal *contains all pertinent information when initially submitted.* Prior to mailing, compare your proposal with the Application Requirements checklist contained in the Research Grant Application Kit and the format cited in Appendix III of this announcement.

B. To be considered for award, proposals must be prepared in the format prescribed in Appendix III and must be *received* in the Grants Administrative Management office (GAM) by the *close of business* on the date specified for each program area as listed below:

Soybean Research—deadline is March 2, 1984

Animal Health Research—deadline is March 16, 1984

Aquaculture Research—deadline is March 30, 1984

Alcohol Research—deadline is April 6, 1984

Proposals should not exceed 10 pages (single spaced) excluding the literature citation, vitae appendices, and required forms from the Research Grant Application Kit.

When proposals exceed 10 pages in total, only the first 10 pages, excluding the pages referenced in the above paragraph, will be evaluated. (Please print on one side only; it is difficult to review material that is printed back-to-back. Also, please staple proposals securely; but do not bind. The clips come off of unstapled proposals and pages come apart. Binding must be removed to facilitate processing.)

C. Research Involving Special Consideration. A number of situations frequently encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If special information or supporting documentation is involved, the proposal should so indicate. Since some types of research targeted for CSRS support have a high probability of involving either recombinant deoxyribonucleic acid (DNA) or human subjects, special instructions follow:

Recombinant DNA. Principal investigators and endorsing performing organization officials must comply with the guidelines of the National Institutes of Health (see NIH "Guidelines for Research Involving Recombinant DNA Molecules" (43 FR 60108–60131) and subsequent revisions).

Human Subjects. Safeguarding the rights and welfare of human subjects used in research supported by CSRS grants is the responsibility of the performing organization. The informed consent of the human subject is a vital element in this process. Guidance is contained in Pub. L. 93–348, as implemented by Part 46, Subtitle A of Title 45 of the Code of Federal Regulations, as amended (45 CFR Part 46).

If a grant is recommended for award and the project involves human subjects at risk, the grantee must furnish CSRS with a statement that the research plan has been reviewed and approved by the appropriate Institutional Review Board at the grantee organization and that the grantee is in compliance with Department of Health and Human Services (DHHS) policies, as amended, regarding the use of human subjects. Form S&E–84, Protection of Human Subjects, may be used for this purpose.

3. Budget and Report Requirements

The following items apply only to those proposals that are selected for funding:

A. The grant will be awarded on the basis of all financial support, from any source, that is shown in the proposal budget (Form S&E–55). While cost sharing is encouraged, it is not required and will not be a factor in the selection process.

B. Annual financial reports (Standard Form 269) will be required.

C. An annual progress report not to exceed 2 pages will be required in addition to a shorter summary for insertion into a computerized research information service. Annual reports will be organized around the objectives and research timetable as specified in the project proposal.

D. Comprehensive (performance and financial) final reports must be submitted to CSRS within 90 calendar days after the termination date of the grant.

Appendix II—Selection of Proposals for Funding

A. Selection Criteria. A panel of peer scientists for each specific area of inquiry will evaluate the proposals utilizing selection criteria listed in Appendices IV and IV–A. The peer panel, when appropriate, can recommend a reduced level of funding for a proposal or that the research be confined to certain objectives for proposals under review. Utilizing the recommendations of peer panels, CSRS will select the proposals to be funded within the amount available for each program area.

B. When the peer panel recommends that the amount of award be reduced below the amount proposed for a project or where the panel recommends that

only research dealing with selected objectives be funded, these changes will be discussed with the submitting institution. If the institution elects not to make these changes as a condition of the award, the proposal will be dropped from the area of inquiry and another proposal selected from those recommended by the peer panel will be funded. A copy of the summary evaluation made by the peer panel will be provided for each unfunded proposal.

C. Disposition of Proposals. After the grants are awarded, the CSRS program manager will retain one copy of unfunded proposals on file for 5 years. The remaining copies will be destroyed. Confidential business information in applications will be protected to the extent allowable by law from disclosure under the Freedom of Information Act, Pub. L. 93–502 (5 U.S.C. 552).

D. Grant Award. The applicants submitting proposals judged most meritorious under criteria in Appendix IV will be awarded grants for periods not to exceed five years, within the limitations of available funds.

Appendix III—Format for Research Proposal

The Research Grant Application Kit (available from the Grants Administrative Management office) includes forms, instructions, and other information to be used in applying for research grants which will be awarded in the areas described earlier.

Additional information and/or instructions relating to the format and content of the Research Proposal follow:

1. Grant Application (Form S&E–661). A Grant Application with all relevant original signatures must be included with the proposal. All other copies of the proposal should also contain a Grant Application, but facsimile or photocopied signatures will be accepted.

2. Title of Proposal. A brief, clear, specific designation of the subject of the research. The title (80 characters maximum) will be used for the USDA Current Research Information System (CRIS), for information to Congress, and for press releases. Therefore, it should not contain highly technical words. Phrases such as "Investigation of" or "Research on" should not be used.

3. Approval Signatures of Appropriate Officials. All proposals from a university, college, or institution must be signed by an authorized official.

4. Objectives. A clear, concise, complete, and logically arranged statement of the specific aims of the research.

5. Procedures. A statement of the essential working plans and methods to be used in attaining each of the stated objectives. Procedures should correspond to the objectives and follow the same order. Procedures should include items such as the sampling plan, experimental design, and analyses anticipated.

6. Justification. This should describe (1) the importance of the problem to the needs of the Department of Agriculture and to the Nation, being sure to include estimates of the magnitude of the problem; (2) the importance of starting the work now; and (3) reasons for the work being performed in your particular institution.

7. Literature Review. A summary of pertinent publications with emphasis on their relationship to the research. Cite important and recent publications from other institutions, as well as your own institution. Citations should be accurate and complete including the title of the article. Literature citations should be appended to the proposal and are not included in the 10-page limit.

8. Current Research. Describe the relevancy of the proposed research to ongoing and as yet unpublished research at your own and at other institutions. Show other grants or support in this and related areas.

9. Facilities and Equipment. The location of the work and the needed and available facilities and equipment should be clearly indicated. This section may be combined with Section 5, Procedures, but the combination must clearly show needed and available facilities and equipment.

10. Research timetable. Show all important research phases as a function of time, year by year.

11. Personnel Support. Identify clearly all personnel who will be involved in the research. For each scientist involved, include (1) and estimate of the time commitments necessary and (2) vitae of the principal investigator, senior associates, and other professional personnel to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the project, whether or not Federal funds are sought for their support. The vitae also can be provided as an appendix and will not be included in the 10-page limit. The vitae are to be no more than 2 pages each in length excluding publication listings. Provided for each person a chronological list of the most recent representative publications during the preceding 5 years, including those in press. List the authors in the same order as they appear on the paper, the full title, and the complete reference as they usually appear in journals.

12. Budget. Instructions for completion of the Proposal Budget (Form S&E 55) are contained in the Research Grant Application Kit. Please be sure that your total budget request does not exceed the maximum amount specified for the program or program area under which you are applying.

13. Additions to Project Description (if any). Each project description is expected by the members of review committees and the program staffs to be complete in itself. Distribution of additional materials, other than for the records, will be limited to the principal reviewers. In those instances in which the submission of additional material is necessary (e.g., photographs which do not reproduce well, and reprints or other especially pertinent material which are not suitable for inclusion in the proposal), 8 copies or sets, identified by title of the research project and name of the principal investigator(s), should accompany the proposal.

Appendix IV—Peer Panel Scoring Form

Proposal Identification No. _____
Institution and Project Title _____

_____

_____

_____

I. Basic Requirement:

Proposal falls within guidelines? —— yes —— no. If no, explain why proposal does not meet guidelines under comment section of this form.

II. Selection Criteria:

	Score 1–10	Weight factor	Score X weight factor	Comments
1. Scientific and technical quality of the idea		8		
2. Scientific and technological quality of the approach		8		
3. Relevance and importance of proposed research to solution of specific areas of inquiry		6		
4. Feasibility of attaining objectives during life of proposed research		5		
5. Adequacy of professional training or research experience of research team in essential disciplines needed to conduct the proposed research		5		
6. Adequacy of facilities, equipment, and professional and technical staffing		5		

Score ——————————
Summary Comments: ——————————

Appendix IV–A—Evaluation of Proposals

The peer panel, subject to final determination by the Administrator of CSRS, will determine whether a proposal falls within the guidelines. If the proposal does not meet the guidelines, the proposal will be eliminated from competition and returned to the institution submitting the proposal. Proposals not meeting the guidelines will not be scored on selection criteria be the peer panel.

Proposals reflecting a total budget which exceeds the maximum budget allowed for a particular program area will be considered outside the guidelines.

Proposals satisfactorily meeting the guidelines will be evaluated and scored by the peer panel for each criterion utilizing a scale of 1 to 10. A score a one is low for the selection criterion. A score of 10 is high for the selection criterion. A weighting factor is used for each criterion.

Grant Administration and Allowable Costs

The grants awarded will be administered in accordance with the USDA Uniform Federal Assistance Regulations (7 CFR Part 3015, as amended), and applicable OMB Circulars.

The determination of allowable costs shall be made in accordance with the following applicable Federal Cost Principles in effect on the effective date of the Agreement:

Educational Institutions—OMB Circular No. A–21.

State and Local Governments—OMB Circular No. A–87.

Nonprofit Organizations—OMB Circular No. A–122.

Commercial Firms—FPR 1–15.2.

Information collection requirements contained in this document have been approved under OMB Document No. 0524–0010.

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Federal Register

Monday
January 9, 1984

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Experimental Populations; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Experimental Populations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to amend Part 17 of Title 50 of the Code of Federal Regulations in order to comply with changes made in the Endangered Species Act of 1973 (Act) by the Endangered Species Act Amendments of 1982 (Amendments). Part 17 would be amended to establish procedures for: (1) The establishment and/or designation of certain populations of species otherwise listed as Endangered or Threatened as experimental populations; (2) the determination of such populations as "essential" or nonessential"; and (3) the promulgation of appropriate protective measures for such populations.

DATES: Comments must be received by February 8, 1984.

ADDRESSES: Interested persons or organizations are requested to submit comments to: Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20240, Attention: Experimental populations. Comments should refer to individual sections of the proposed rules being addressed. Comments and other materials relating to these rules will be available for public inspection by appointment during normal business hours (7:45–4:15 p.m.) at the Service's Office of Endangered Species, 1000 North Glebe Road, Suite 500, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION: The Endangered Species Act Amendments of 1982, Pub. L. 97–304, became law on October 13, 1982. Among the significant changes made by the 1982 Amendments was the creation of a new Section 10(j), which established procedures for the designation of specific populations of listed species as an "experimental population". Prior to the 1982 Amendments, the Service was authorized to translocated listed species into unoccupied portions of their historic range in order to aid in the recovery of the species. Significant local opposition to translocation efforts often occurred, however, due to concerns over the rigid protection and prohibitions surrounding listed species under the Act. Section 10(j) of the 1982 Amendments was designed to resolve this dilemma by providing new administrative flexibility for selectively applying the prohibitions of the Act.

In particular, the provisions of Section 7 and Section 9 may now be discretionarily applied to an experimental population. Section 9 stringently prohibits the taking of endangered species. The 1982 Amendments provide new flexibility under that section by authorizing the treatment of an experimental population as "threatened" even though the donor population from which the experimental population came is currently listed as endangered. Treatment of the experimental population as threatened enables the Secretary to impose less restrictive taking prohibitions under the authority of Section 4(d) of the Act. As for Section 7, Subsection 7(a)(2) of that Section prohibits Federal agencies from authorizing, funding, or carrying out any activity which would be likely to jeopardize the continued existence of an endangered or threatened species or adversely modify their critical habitats. Under the 1982 Amendments, however, experimental populations that are not "essential" to the continued existence of a species in the wild (and not located within a unit of the National Park System or National Wildlife Refuge System) may be excluded from protection under Section 7(a)(2) of the Act. For such species, Federal agencies would only be required under the Act to informally confer with the Fish and Wildlife Service and treat the species as if they were proposed species under Section 7(a)(4). On the other hand, experimental populations determined to be "essential" to the survival of a species would remain subject to all of the provisions of Section 7. The individual organisms comprising the designated experimental population would be removed from an existent source or "donor" population only after it has been determined that their removal would not violate Section 7(a)(2) of the act and would comply with the permit requirements of Section 19(a)(1)(A) and (d). This proposal would add a new subpart to 50 CFR Part 17 governing designations of experimental populations and would allow for the identification of the special rules govening experimental populations in the lists of endangered and threatened wildlife and plants.

The 1982 Amendments specified a regulatory procedure to be followed for the designation of experimental populations of listed species. In addition, the Conference Report accompanying the Amendments also provides for the conservation of experimental populations by means of written agreements or memoranda of understanding (MOU's) between the Service and other Federal land managing agencies. The Conference Report indicates, however, that MOU's, which may be used to address special managment concerns, cannot be used as a substitute for the rulemaking process outlined in this proposal to identify the location of an experimental population and to determine its essentiality. The use of MOU's without the promulgation of Section 10(j) regulations and appropriate special rules under Section 4(d) of the Act would not relieve any of the restrictions under Section 7 and 9 otherwise applicable to the species.

The designation of an experimental population would include the development of special rules to identify geographically the location of the experimental population and identify procedures to be utilized in its management. The special rule for each experimental population would be developed on a case-by-case basis. It is expected that some regulations to designate an experimental population may also authorize special activities designed to contain the population within the original boundaries set out in the regulation. This will avoid law enforcement problems stemming from the inability to distinguish between fully protected specimens of the donor population from lesser protected specimens of the experimental population.

Regulations for the establishment or designation of experimental populations will be issued in compliance with the Administrative Procedure Act (APA), 5 U.S.C. 553, in order to secure the benefit of public comment and address the needs of each particular population propposed for experimental designations. A rulemaking under Section 10(j) will provide a minimum 30 day comment period. A Section 10(j) rulemaking, because it does not involve an actual determination of endangered or threatened biological status for a species, need not follow the usual Section 4 process for listings. (However, if critical habitat is proposed, then Section 4 would apply.) An experimental populations is by statue given the classification of "Threatened," and the Section 10(j) process is primarily involved with the promulgation of "special rules" that can be issued under the informal rulemaking process of the APA.

Specific changes proposed to be made in Part 17 are set out below.

Section-by-Section Analysis

Subpart B—Lists

Section 17.11 Endangered and Threatened Wildlife: This section would be amended to allow identification of experimental populations in the List of Endangered and Threatened wildlife.

Section 17.12 Endangered and Threatened plants: This section would be amended to allow identification of experimental populations in the List of Endangered and Threatended plants.

Subpart H—Experimental Populations.

Section 17.80 Definitions: Subsection (a) explains the critical features that must exist for a particular population of a listed species to be treated as an "experimental population." The proposed regulatory definition parallels the statue. Subsection (b) distinguishes between "essential" and "nonessential" experimental populations.

Section 17.81 Listing: This section would set out the regulatory steps under which experimental populations may be established and determined to be "essential" or "non-essential." The conditions are intended to assure that experimental populations are released only when their establishment contributes to the overall recovery of a species and that determinations concerning the essentiality of such populations conform to the standards set by the Act. Technical guidance is also provided regarding the content of rules implementing designations of experimental populations. In addition, this Section would allow captive-bred or translocated populations released before passage of the 1982 Amendments to be formally designated as experimental under the procedures of this Subpart H if the requirements of § 17.81(c) are met. Further, this section would provide a procedure for designating the special rules relating to specific experimental populations in the lists at 50 CFR 17.11(h) and 17.12(h). Also noted is the Service's obligation to consult with affected agencies and individuals throughout the experimental population designation process. Subsection (d) of Section 17.81 reflects Congressional intent behind the enactment of Section 10(j):

> "Regulations [to establish or designate experimental populations] should be viewed as an agreement among the Federal agencies, the State fish and wildlife agencies and any landowners involved. Changes in the regulations should only be made after close consultation with all of the affected parties." H. Rept. No. 567, 97th Cong., 2d Sess. 34 (1982).

Section 17.82 Prohibitions: This section would recognize that experimental populations are treated as threatened species for purposes of Sections 4 and 9 of the Act. Therefore, all prohibitions applicable to an experimental population must be established by a special rule promulgated under Section 4(d) of the Act. Because each experimental population will be identified by special rule, all pertinent prohibitions and exceptions applicable to the population will be included in the text of the special rule itself and codified in §§ 17.84–17.86, as appropriate.

Section 17.83 Interagency cooperation: This section would provide flexibility in the application of Section 7 of the Act to experimental populations, as called for by the 1982 Amendments. Those Amendments require, however, that experimental populations deterimed to be "essential" to the survival of a species and/or those found on National Park System or National Wildlife Refuge System lands remain subject to the "jeopardy" prohibitions of Section 7(a)(2). Other experimental populations (i.e., those determined not be be essential to a species' survival and not occurring within the National Park System or the National Wildlife Refuge System) are covered only by the provisions of Section 7(a)(1) authorizing Federal agencies to establish conservation programs for listed species and the provisions of Section 7(a)(4) requiring Federal agencies to informally confer with the Secretary regarding actions likely to jeopardize the experimental population's continued existence.

Public Comments Solicited

The Service intends that any rule finally adopted be as effective as possible in implementing the Act, as amended. Therefore, comments or recommendations concerning any aspect of this proposed rule are hereby invited from the public, concerned government agencies, the scientific community, industry, private interests, or any other interested party. Comments should be as specific as possible and refer to sections and paragraphs involved.

Final promulgation of a rule to implement this proposed action will take into consideration any comments or additional information received by the Service. Such communications may lead to the adoption of a final rule that differs from this proposal.

Executive Order 12291, Paperwork Reduction Act, and Regulatory Flexibility Act

The U.S. Fish and Wildlife Service has determined that this is not a major rule as defined by Executive Order 12291; that the rule would not have a significant economic effect on a substantial number of small entities as described in the Regulatory Flexibility Act (Pub. L. 96–354); and that the rule as proposed does not contain any information collection or recordkeeping requirements as defined in the Paperwork Act of 1980 (Pub. L. 96–511).

The rule contained in this proposal is procedural in nature and principally implements the 1982 Amendments to the Endangered Species Act. In so doing, the proposal seeks to conform to new requirements of the Amendments. Any potential effects of such compliance stem directely from legislation and cannot be evaluated as independent effects of the proposal.

National Environmental Policy Act (NEPA)

A draft Environmental Assessment under NEPA has been prepared and is available to the public at the Office of Endangered Species, U.S. Fish and Wildlife Service at the address listed above. A decision will be made prior to the issuance of a final rule on whether the preparation of an Environmental Impact Statement is required for this action. Further information on this matter is hereby solicited.

Author

The principal author of this proposal is Peter G. Poulos, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. (703/235–2760).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

Accordingly, it is proposed to amend Part 17 of Chapter I of Title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Part 17 is proposed to be amended by adding to the table of contents the following:

* * * * *

Subpart H—Experimental Populations

Sec.
17.80 Definitions.
17.81 Listings.
17.82 Prohibitions.
17.83 Interagency cooperation.
17.84 Special rules—vertebrates. [Reserved]
17.85 Special rules—invertebrates. [Reserved]
17.86 Special rules—plants. [Reserved]

3. Part 17 is proposed to be amended by revising §17.11(f)(2) to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(f) * * *

(2) The "Special Rules" and "Critical Habitat" columns provide a cross reference to other sections in Parts 17, 222, 226, or 227. The "Special Rules" column will also be used to cite the special rules that describe experimental populations and determine if they are essential or non-essential. Separate listings will be made for experimental populations, and the status column will include the following symbols: "XE" for an essential experimental population and "XN" for a non-essential experimental population. The term "NA" (not applicable) appearing in either of these two columns indicates that there are no special rules and/or Critical Habitat for that particular species. However, all other appropriate rules in Parts 17, 217–227, and 402 still apply to that species. In addition, there may be other rules in this Title that relate to such wildlife, e.g., port-of-entry requirements. It is not intended that the references in the "Species Rules" column list all the regulations of the two Services which might apply to the species or to the regulations of other Federal agencies or State or local governments.

4. Part 17 is further proposed to be amended by revising § 17.12(f)(2) to read as follows:

§ 17.12 Endangered and threatened plants.

(f)* * * *

(2) The "Special Rules" and "Critical Habitat" columns provide a cross reference to other sections in Parts 17, 222, 226, or 227. The "Special Rules" column will also be used to cite the special rules which describe experimental populations and determine if they are essential or non-essential. Separate listings will be made for experimental populations, and the status column will include the following symbols: "XE" for an essential experimental population and "XN" for a non-essential experimental population. The term "NA" (not applicable) appearing in either of these two columns indicates that there are no special rules and/or Critical Habitat for that particular species. However, all other appropriate rules in Parts 17, 217–227, and 402 still apply to that species. In addition, there may be other rules in this Title that relate to such plants, e.g., port-of-entry requirements. It is not intended that the references in the "Specia Rules" column list all the regulations of the two Services which might apply to the species or to the regulations of other Federal agencies or State of local governments.

5. Part 17 is further proposed to be amended by adding a new Subpart H as follows:

Subpart H—Experimental Populations

§ 17.80 Definitions.

(a) The term "experimental population" means an introduced and/or designated population (including any off-spring arising solely therefrom) that has been established in accordance with the procedures of this subpart and is wholly separate geographically from non-experimental populations of the same species during specific periods of time. Where part of an experimental population overlaps with natural populations of the same species during a portion of the year, but is wholly separate at other times, specimens of the experimental population will not be recognized as such while in the area of overlap. That is, experimental status will only be recognized outside the areas of overlap. Thus such a population shall be treated as experimental only when the times of geographic separation are reasonable predictable *e.g.,* fixed migration patterns, natural or man-made barriers. A population is not experimental if total separation will occur solely as a result of random and unpredictable events.

(b) The term "essential experimental population" means an experimental population whose loss would appreciably reduce the likelihood of the survival of that species in th wild. All other experimental populations are to be classified as "nonessential."

§ 17.81 Listing.

(a) The Secretary may, by regulation adopted in accordance with 5 U.S.C. 553 and the requirements of this Subpart, designate as an experimental population a population of endangered or threatened species that has been or will be released outside the species' current natural range but within its probable historic range, subject to the further conditions specified in this Section.

(b) Before authorizing the release as an experimental population of any population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Secretary must find by regulation that such release will furhter the conservation of the species.

In making such a finding the Secretary shall consider:

(1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere;

(2) The likelihood that any such experimental population will become established and survive in the foreseeable future; and

(3) The relative effects that establishment of an experimental population will have on the recovery of the species.

The Secretary may issue a permit under Section 10(a)(1)(A) of the Act, if appropriate under the standards set out in subsections 10(d) and (j) of the Act, to allow acts necessary for the establishment and maintenance of an experimental population.

(c) Any regulation promulgated under paragraph (a) of this section shall provide:

(1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population(s);

(2) A finding, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species; and

(3) Management restrictions, protective measures, or other special concerns of that population, including, but not limited to, measures necessary to contain the experimental population within the boundaries designated in the regulation.

(d) The Fish and Wildlife Service shall consult with appropriate State fish and game agencies, local governmental entities, affected Federal agencies, and affected private landowners throughout the process of developing and implementing experimental population rules.

(e) Any population of an Endangered species or a Threatened species

determined by the Secretary to be an experimental population in accordance with this subject shall be identified by special rule in § 17.84—§ 17.86 as appropriate and separately listed in § 17.11(h) (wildlife) or § 17.12(h) (plants) as appropriate.

(f) The Secretary may designate Critical Habitat for an experimental population of a listed species only if such population has been determined pursuant to paragraph (c)(2) of this section to be essential to the survival of that species. The requirements of Section 4 of the Act must be met for the designation or revision of critical habitat. In those situations where a portion of all of an essential experimental population overlaps with a natural population of the species during certain periods of the year, no critical habitat shall be designated for the area of overlap unless implemented as a revision to critical habitat of the natural population for reasons unrelated to the overlap itself.

§ 17.82 Prohibitions.

Any population determined by the Secretary to be an experimental population shall be treated as if it were listed as a Threatened species for purposes of establishing protective regulations under Section 4(d) of the Act with respect to such population. The special rules (protective regulations) adopted for an experimental population by regulation under § 17.81 will contain all the applicable prohibitions and exceptions for that population.

§ 17.83 Interagency cooperation.

(a) Any experimental population of a listed species (1) determined pursuant to § 17.81(c)(2) of this Subpart not to be essential to the survival of that species and (2) not occurring within the National Park System or the National Wildlife Refuge System, shall be treated for purposes of 50 CFR Part 402 (implementing Section 7 of the Act) as a species proposed to be listed under the Act as a Threatened species.

(b) Any experimental population of a listed species that either (1) has been determined pursuant to § 17.81(c)(2) of this Subpart to be essential to the survival of that species, or (2) occurs within the National Park System or the National Wildlife Refuge System, shall be treated for purposes of 50 CFR Part 402 (implementing Section 7 of the Act) as a Threatened species.

§ 17.84 Special rules—vertebrates. [Reserved]

§ 17.85 Special rules—invertebrates. [Reserved]

17.86 Special rules—plants. [Reserved]

Dated: November 15, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 84-435 Filed 1-6-84; 8:45 am]
BILLING CODE 4310-55-M

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Federal Register

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Monday, January 9, 1984

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FEDERAL REGISTER PAGES AND DATES, JANUARY

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List December 19, 1983.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been changed since last week.

New units issued during the week are announced on the back cover of the daily Federal Register as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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1, 2 (2 Reserved)	$6.00	Jan. 1, 1983
3 (1982 Compilation and Parts 100 and 101)	6.00	Jan. 1, 1983
4	7.50	Jan. 1, 1983
5 Parts:		
1-1199	8.50	Jan. 1, 1983
1200-End, 6 (6 Reserved)	6.00	Jan. 1, 1983
7 Parts:		
0-45	9.00	Jan. 1, 1983
46-51	7.50	Jan. 1, 1983
52	9.00	Jan. 1, 1983
53-209	7.50	Jan. 1, 1983
210-299	7.00	Jan. 1, 1983
300-399	5.50	Jan. 1, 1983
400-699	6.50	Jan. 1, 1983
700-899	6.50	Jan. 1, 1983
900-999	8.50	Jan. 1, 1983
1000-1059	7.50	Jan. 1, 1983
1060-1119	6.50	Jan. 1, 1983
1120-1199	7.00	Jan. 1, 1983
1200-1499	7.00	Jan. 1, 1983
1500-1899	6.50	Jan. 1, 1983
1900-1944	8.00	Jan. 1, 1983
1945-End	7.00	Jan. 1, 1983
8	6.50	Jan. 1, 1983
9 Parts:		
1-199	7.50	Jan. 1, 1983
200-End	7.50	Jan. 1, 1983
10 Parts:		
0-199	9.00	Jan. 1, 1983
200-399	7.50	Jan. 1, 1983
400-499	6.50	Jan. 1, 1983
500-End	7.00	Jan. 1, 1983
11	5.50	July 1, 1983
12 Parts:		
1-199	7.00	Jan. 1, 1983
200-299	8.00	Jan. 1, 1983
300-499	7.00	Jan. 1, 1983
500-End	8.00	Jan. 1, 1983
13	8.00	Jan. 1, 1983
14 Parts:		
1-59	7.00	Jan. 1, 1983
60-139	7.00	Jan. 1, 1983
140-199	5.50	Jan. 1, 1983
200-1199	7.00	Jan. 1, 1983
1200-End	6.50	Jan. 1, 1983
15 Parts:		
0-299	6.50	Jan. 1, 1983
300-399	7.00	Jan. 1, 1983
400-End	7.50	Jan. 1, 1983
16 Parts:		
0-149	7.00	Jan. 1, 1983
150-999	7.00	Jan. 1, 1983
1000-End	7.00	Jan. 1, 1983
17 Parts:		
1-239	8.00	Apr. 1, 1983
240-End	7.00	Apr. 1, 1983
18 Parts:		
1-149	7.00	Apr. 1, 1983
150-399	8.00	Apr. 1, 1983
400-End	6.50	Apr. 1, 1983
19	8.50	Apr. 1, 1983
20 Parts:		
1-399	5.50	Apr. 1, 1983
400-499	7.00	Apr. 1, 1983
500-End	7.50	Apr. 1, 1983
21 Parts:		
1-99	6.00	Apr. 1, 1983
100-169	6.50	Apr. 1, 1983
170-199	6.50	Apr. 1, 1983
200-299	4.75	Apr. 1, 1983
300-499	8.00	Apr. 1, 1983
500-599	6.50	Apr. 1, 1983
600-799	5.00	Apr. 1, 1983
800-1299	6.00	Apr. 1, 1983
1300-End	5.00	Apr. 1, 1983
22	8.50	Apr. 1, 1983
23	7.00	Apr. 1, 1983
24 Parts:		
0-199	6.00	Apr. 1, 1983
200-499	8.00	Apr. 1, 1983
500-799	5.00	Apr. 1, 1983
800-1699	6.50	Apr. 1, 1983
1700-End	6.00	Apr. 1, 1983
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§§ 1.0-1.169	8.00	Apr. 1, 1983
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2-29	7.00	Apr. 1, 1983
30-39	6.00	Apr. 1, 1983
40-299	7.50	Apr. 1, 1983
300-499	6.00	Apr. 1, 1983
500-599	8.00	[2] Apr. 1, 1980
600-End	5.00	Apr. 1, 1983
27 Parts:		
1-199	6.50	Apr. 1, 1983
200-End	6.50	Apr. 1, 1983
28	7.00	July 1, 1983
29 Parts:		
0-99	8.00	July 1, 1983
100-499	5.50	July 1, 1983
500-899	8.00	July 1, 1983
900-1899	5.50	July 1, 1983
1900-1910	8.50	July 1, 1983
1911-1919	4.50	July 1, 1983
1920-End	8.00	July 1, 1983
30 Parts:		
0-199	7.00	July 1, 1983
200-End	10.00	July 1, 1982
31 Parts:		
0-199	6.00	July 1, 1983
200-End	6.50	July 1, 1983
32 Parts:		
1-39, Vol. I	8.50	July 1, 1983

Title	Price	Revision Date
1–39, Vol. II	13.00	July 1, 1983
1–39, Vol. III	9.00	July 1, 1983
40–189	6.50	July 1, 1983
190–399	13.00	July 1, 1983
*400–699	12.00	July 1, 1983
700–799	7.50	July 1, 1983
800–999	6.50	July 1, 1983
1000–End	6.00	July 1, 1983
33 Parts:		
1–199	14.00	July 1, 1983
200–End	7.00	July 1, 1983
34 Parts:		
1–299	13.00	July 1, 1983
300–399	6.00	July 1, 1983
*400–End	15.00	July 1, 1983
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36 Parts:		
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200–End	12.50	July 1, 1983
37	6.00	July 1, 1983
38 Parts:		
0–17	7.00	July 1, 1983
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*39	7.50	July 1, 1983
40 Parts:		
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52	14.00	July 1, 1983
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81–99	7.50	July 1, 1983
100–149	6.00	July 1, 1983
150–189	6.50	July 1, 1983
190–399	7.00	July 1, 1983
400–424	6.50	July 1, 1983
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41 Chapters:		
1, 1–1 to 1–10	7.00	July 1, 1983
1, 1–11 to Appendix, 2 (2 Reserved)	6.50	July 1, 1983
3–6	7.00	July 1, 1983
7	5.00	July 1, 1983
8	4.75	July 1, 1983
9	7.00	July 1, 1983
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18, Vol. II, Parts 6–19	7.00	July 1, 1983
18, Vol. III, Parts 20–52	6.50	July 1, 1983
19–100	7.00	July 1, 1983
*101	14.00	July 1, 1983
102–End	6.50	July 1, 1983
42 Parts:		
1–60	7.50	Oct. 1, 1982
*61–399	7.50	Oct. 1, 1983
400–End	9.50	Oct. 1, 1982

Title	Price	Revision Date
43 Parts:		
*1–999	9.00	Oct. 1, 1983
1000–3999	8.50	Oct. 1, 1982
4000–End	7.00	Oct. 1, 1982
44	7.50	Oct. 1, 1982
45 Parts:		
*1–199	9.00	Oct. 1, 1983
200–499	6.00	Oct. 1, 1982
500–1199	7.50	Oct. 1, 1982
1200–End	7.50	Oct. 1, 1982
46 Parts:		
1–29	6.00	Oct. 1, 1982
30–40	5.50	Oct. 1, 1982
41–69	7.50	Oct. 1, 1982
70–89	6.00	Oct. 1, 1982
90–109	6.50	Oct. 1, 1982
110–139	5.00	Oct. 1, 1982
140–155	7.00	Oct. 1, 1982
156–165	7.50	Oct. 1, 1982
166–199	7.00	Oct. 1, 1982
200–399	8.50	Oct. 1, 1982
400–End	7.00	Oct. 1, 1982
47 Parts:		
0–19	8.50	Oct. 1, 1982
20–69	9.00	Oct. 1, 1982
70–79	8.00	Oct. 1, 1982
80–End	9.00	Oct. 1, 1982
48	1.50	[3] Sept. 19, 1983
49 Parts:		
1–99	6.50	Oct. 1, 1982
100–177	9.00	Oct. 1, 1982
178–199	8.00	Oct. 1, 1982
200–399	7.50	Oct. 1, 1982
400–999	8.00	Oct. 1, 1982
1000–1199	7.50	Nov. 1, 1982
1200–1299	7.50	Oct. 1, 1982
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50 Parts:		
1–199	7.00	Oct. 1, 1982
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[1] No amendments to these volumes were promulgated during the period Apr. 1, 1982 to March 31, 1983. The CFR volumes issued as of Apr. 1, 1982 should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).